UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2002/196
26 April 2002

Original:
ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Agenda item 18 (b)

# EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS: NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS

## National institutions for the promotion and protection of human rights

Note by the Secretariat

The present document contains, in the annex,* the statements of national institutions for the promotion and protection of human rights that, owing to the emergency measures applied during the fifty-eighth session of the Commission, could not be delivered orally during the general debate under agenda item 18 (b).

* The statements are issued as received, in the language of submission only.

GE.02-13569

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## ANNEX

### Statements of national institutions for the promotion and protection of human rights

1. Comité international de coordination des institutions nationales de promotion et de protection des droits de l'h mme
2. Coordinating Committee of the African National Institutions for the Promotion and Protection of Human Rights
3. National Commission on Human Rights (Mexico)
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5. European Coordinating Group for National Institutions
6. Human Rights and Equal Opportunity Commission (Australia)
7. Canadian Human Rights Commission (Canada)
8. National Commission on Human Rights and Freedoms (Cameroon)
9. Defensoria del Pueblo (Colombia)
10. The Danish Centre for Human Rights (Denmark)
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12. National Human Rights Commission (India)
13. Islamic Human Rights Commission (Iran)
14. National Human Rights Commission (Malaysia)
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17. National Human Rights Commission (Mongolia)
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19. Commission nationale des droits de l'homme et des libertés fondamentales (Niger)
20. Northern Ireland Human Rights Commission
21. Commission Nationale des droits de l'homme (Rwanda)
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23. Comité supérieur des droits de l'homme et des libertés fondamentales (Tunisia)
24. Permanent Human Rights Commission (Zambia)

**COMITÉ INTERNATIONAL DE COORDINATION
DES INSTITUTIONS NATIONALES DE PROMOTION ET DE PROTECTION
DES DROITS DE L'HOMME (CIC)**

**ALLOCUTION DE MONSIEUR DRISS DAHAK,
PRÉSIDENT DU CIC**

**58ème SESSION DE LA COMMISSION DES DROITS DE L'HOMME
Genève, le 18 avril 2002**

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Monsieur le Président,
Madame le Haut Commissaire,
Mesdames, Messieurs,

Je vous remercie de me donner la parole devant cette honorable assemblée, où il m'est particulièrement agréable d'intervenir encore une fois au nom des Membres du Comité International de Coordination des Institutions nationales de promotion et de protection des droits de l'homme et, à travers eux, au nom de toutes les Institutions nationales d'Afrique, d'Amérique, d'Asie-Pacifique et d'Europe.

Le groupement que je représente se raffermit chaque jour davantage. Il occupe une place de plus en plus importante dans chacun de nos pays.

Et, malgré sa jeunesse, il se développe sûrement, notamment grâce au concours et à l'impulsion, généreux et précieux, du Haut Commissaire des Nations Unies aux droits de l'homme, Madame Mary Robinson - dont nous saluons tous ici l'efficacité de ses actions en faveur du développement des Institutions nationales et l'assistance qui leur est apportée.

Le développement du nombre et du rôle de ces Institutions nationales, sont également le fruit du travail remarquable de l'Equipe qui oeuvre au sein du Bureau du Haut Commissaire.

Cette année a connu d'importantes manifestations internationales touchant à la promotion et à la protection des droits de l'homme, dont je ne peux faire un inventaire exhaustif, faute de

temps, mais j'en soulignerai la plus remarquable. C'est, bien entendu, la Conférence Mondiale contre le Racisme, qui s'est tenue du 31 août au 8 septembre 2001 à Durban/Afrique du Sud, ainsi que la réunion préparatoire, propre aux Institutions nationales, à Johannesburg, les 17 et 18 août 2001.

Cette Conférence Mondiale et les différentes réunions préparatoires, régionales en particulier, ont nécessité beaucoup d'énergie et de travail pour tous, plus particulièrement pour le Secrétariat Général de la Conférence Mondiale dirigé par Mme Robinson. Le débat sur ce sujet est loin d'être épuisé, et j'en veux pour preuve le thème de la 6ème Conférence Internationale des Institutions nationales qui vient de se tenir à Copenhague et Lund.

Nous espérons que les Etats, les organisations et les personnes concernées par cette problématique, puissent avoir le recul suffisant et les moyens adéquats pour pouvoir surmonter les nombreuses difficultés d'accord et de mise en application des recommandations qui en découlent.

Monsieur le Président,
Madame le Haut Commissaire,
Mesdames, Messieurs,

Les institutions nationales de promotion et de protection des droits de l'homme représentent l'instrument de transformation du *corpus juris* international des droits de l'homme en une réalité vécue au quotidien par les individus et les collectivités. En effet, les Déclarations, les Conventions et les Protocoles relatifs aux droits de l'homme n'acquièrent toute leur valeur qu'à travers leur mise en oeuvre concrète par des protagonistes dévoués à la cause des droits de l'homme.

Les institutions nationales sont les médiateurs entre les représentants de la société civile, plus militants et revendicatifs, et les pouvoirs publics, généralement enclins à préserver la sécurité économique, sociale et culturelle. Les institutions nationales s'efforcent, avec conviction et persévérance, à rendre effectifs les principes et les règlements en matière de droits de l'homme. A cet effet, elles sollicitent les décideurs politiques et facilitent le dialogue à l'échelle nationale entre toutes les parties prenantes en vue de promouvoir et de protéger les droits de l'homme.

Ce pragmatisme et cette persévérance dans l'action ont conféré aux institutions nationales une crédibilité incontestable tant au regard de la société civile qu'à celui des pouvoirs publics. C'est pourquoi l'on assiste à l'accroissement régulier du nombre des institutions nationales, qui a presque triplé en quelques années. Un tel accroissement va de pair avec l'accréditation des institutions par le sous-comité du Comité International de Coordination (CIC), qui veille au respect des caractéristiques de pluralisme, d'indépendance et d'efficacité, relevant des Principes de Paris.

Il convient aussi de souligner que les Conférences internationales des institutions nationales et les réunions du CIC contribuent à la création de nouvelles institutions dont les statuts et le fonctionnement sont conformes aux Principes de Paris - ce qui représente la condition de leur crédibilité.

A titre d'illustration du rôle pratique des institutions nationales, je souhaite attirer votre attention sur leur contribution à Durban l'année dernière à la Conférence contre le racisme, la discrimination raciale, la xénophobie et l'intolérance qui y est associée, ainsi qu'au suivi du Programme d'action et de la Déclaration de cette Conférence. La semaine dernière, à Copenhague, les institutions nationales ont tenu leur sixième Conférence internationale qu'elles ont consacrée aux activités à mettre en oeuvre au niveau national pour donner suite au Programme d'action.

En effet, la Déclaration de Copenhague, adoptée à cette sixième Conférence, récapitule l'ensemble des moyens et des mesures qui sont à la disposition des institutions nationales pour venir en aide aux victimes de la discrimination raciale. La Déclaration souligne aussi le rôle singulier des institutions nationales dans les mécanismes de surveillance et de rapports relatifs aux actes de racisme, de discrimination raciale, de xénophobie et d'intolérance, ainsi que dans la prévention et l'éducation. A Copenhague, les institutions nationales ont procédé à des échanges d'idées sur les bonnes pratiques relatives aux rôles des institutions nationales en matière de surveillance, de rapport, de prévention et d'éducation. Les modalités de coopération ont été aussi examinées pour permettre aux institutions nationales de s'entraider dans la lutte contre le fléau que représente le racisme et les diverses formes de discrimination.

Monsieur le Président,
Madame le Haut Commissaire,

Mesdames, Messieurs,

Je puis vous assurer de la vitalité des institutions nationales de promotion et de protection des droits de l'homme et de leur action déterminée et persévérante dans le contexte de l'extrême importance des droits de l'homme pour le monde. Il convient en effet de saisir cette *"occasion rare pour l'humanité de prendre son avenir en main"*, selon l'expression de Mme. Robinson.

Je regrette, toutefois, au nom de toutes les institutions nationales ayant participé à la sixième Conférence internationale de Copenhague, qu'au moment où ces institutions nationales font preuve d'un dynamisme et d'une efficacité incontestable, notre temps d'intervention devant la Commission ait été réduit. J'ose espérer qu'il s'agit d'une mesure conjoncturelle, dont nous comprenons les raisons, et qu'à l'avenir, ce temps de parole soit plus en rapport avec le nombre et le rôle des institutions nationales.

En effet, la Commission représente un espace privilégié pour ces institutions qui, une fois l'an, y résument leurs activités. Elles y trouvent un précieux encouragement à leur action.

Pour l'heure et à la suite de mon intervention, les représentants des quatre groupes régionaux du Comité international de coordination prendront la parole, en respectant la durée qui nous a été attribuée.

Je vous remercie de votre attention.

**COMMUNICATION DE M. KOMI GNONDOLI,
PRÉSIDENT DE LA CNDH/TOGO, PRÉSIDENT DU
COMITÉ AFRICAIN DE COORDINATION DES INSTITUTIONS NATIONALES
DES DROITS DE L'HOMME, AU NOM DU GROUPE AFRICAIN**

**58ème SESSION DE LA COMMISSION DES DROITS DE L'HOMME
Genève, le 18 avril 2002**

Monsieur le Président,

C'est un réel plaisir pour moi de prendre la parole devant cette auguste assemblée au nom du Comité Africain de Coordination des Institutions Nationales des droits de l'homme dont l'honneur m'échoit de présider, pour vous apporter notre modeste contribution aux travaux de la présente session.

Je tiens à rendre un grand hommage à Madame Mary Robinson, Haut Commissaire des Nations Unies aux droits de l'homme pour son engagement inébranlable pour la noble mission des institutions nationales des droits de l'homme. Ses courageuses prises de position vis-à-vis de toutes les violations des droits de l'homme partout où elles sont perpétrées, son esprit d'initiative et toute sa force tranquille ennoblissent les vertus de la femme de culture qu'elle représente.

Monsieur le Président,

Les nombreux témoignages que vous avez eu à écouter durant cette session et les voix de détresse et d'angoisse des victimes, vivantes ou celles qui ne pourront jamais être entendues, vous permettent de faire une évaluation objective de la situation des droits de l'homme dans le monde. Le constat est que celle-ci se dégrade progressivement en dépit des efforts soutenus et des initiatives prises tout azimut.

En regardant les événements horribles de violations des droits de l'homme en Palestine, l'on ne peut qu'éprouver un dégoût , du mépris de la dignité humaine.

En Afrique, la situation des droits de l'homme demeure assez précaire. L'instabilité politique, les guerres civiles, les difficultés économiques que connaissent un grand nombre de nos pays ont pour conséquences l'oppression, la marginalisation, l'exclusion et la dégradation continue des conditions de vie des populations. Oeuvrer beaucoup plus à relever ces défis par une promotion et une protection efficiente des droits de l'homme est au centre des préoccupations des institutions nationales africaines des droits de l'homme.

Comment relever ces défis lorsque les ressources font grandement défaut ?

Les institutions nationales des droits de l'homme qui sont à la recherche des voies et des moyens appropriés pour s'acquitter de leur missions saluent chaleureusement les décisions du Haut Commissariat des Nations Unies aux droits de l'homme tendant à multiplier les formes de coopération avec les institutions nationales africaines. Ce n'est donc pas en vain que nous souhaitons de voir cette coopération se

développer davantage pour pouvoir faire face aux besoins de l'Afrique en ce XXI siècle débutant.

Monsieur le Président,
Mesdames et Messieurs,

Les droits de l'homme nous en convenons tous sont indivisibles et universels. Les institutions nationales africaines étant les acteurs privilégiés de la promotion et la protection des droits de l'homme sur le continent, elles sont témoins de la paupérisation progressive de nombreuses couches de nos populations victimes à la fois du non respect des droits civils et politiques comme des droits économiques sociaux et culturels.

Est-il besoin de rappeler ici les ravages de la pandémie du VIH/SIDA, le trafic des enfants, de la famine, les carences de la couverture médicale, de l'endettement et de la dépendance économique.

Les institutions nationales africaines demeurent convaincues que dans notre combat pour la promotion et la protection des droits de la personne humaine, un équilibre devrait être recherché entre les droits civils et politiques, d'une part, et les droits économiques sociaux et culturels, d'autre part.

En vue d'éviter de continuer de subir davantage toutes les formes d'injustice qui risquent d'hypothéquer définitivement l'avenir du continent, les institutions nationales africaines des droits de l'homme s'activent à la recherche d'une plus grande solidarité entre elles.

Nous espérons vivement que la mise en oeuvre de l'Union Africaine et du nouveau plan de développement en chantier puissent offire l'occasion à ser fils de bâtir l'unité du continent africain sur des bases plus stables, une entité capable d'assurer la paix, la sécurité, où rayonneront les droits de l'homme dans leur indivisibilité. Ceci ne peut être possible sans l'engagement du monde entier en faveur de la concrétisation du droits au développement.

A cet égard, le prochain sommet mondial sur le développement humain durable qui aura lieu cette année en Afrique du Sud devrait faire en sorte qu'il aboutisse à des résultats concrets notamment la réflexion sur l'établissement d'un réel équilibre entre tous les droits de l'homme dans nos plans de développement.

Monsieur le Président,

Du haut de cette tribune, j'ai annoncé l'année dernière la tenue, à Lomé, en mars 2001 de la 3ème Conférence Africaine des Institutions Nationales de Promotion et de Protection des droits de l'homme. Comme preuve du succès de cette Conférence, nous relevons le large écho qui en est fait par le Secrétaire général de l'ONU, M. Kofi Annan, dans son rapport contenu dans le document A/56/255 du 1er Août 2001.

Résumant l'ampleur des tâches qui lui sont confiées et soucieux de veiller à la mise en oeuvre de la Déclaration de Lomé, le Président du Comité de Coordination des institutions nationales africaines s'est attelé à une série d'activités visant à intensifier les relations de coopération entre les institutions nationales africaines des droits de l'homme et à renforcer leur capacité d'action, une grande sensibilisation de celles nouvellement

crées sur les procédures d'accréditation.

L'année 2001 a été marquée par la tenue en terre africaine d'une rencontre historique sur la lutte contre la discrimination raciale, la xénéphobie et l'intolérance qui y est associée.

Le Comité Africain de Coordination des Institutions Nationales des droits de l'homme répondant au souhait de Madame le Haut Commissaire a incité toutes les institutions nationale africaines à y participer massivement et d'élaborer dans le cadre du suivi de cette conférence des plans nationaux d'action.

La coordination africaine des institutions nationales souhaite que les différentes mesures envisagées par les institutions nationales africaine pour éradiquer ce fléau reçoivent l'appui du Haut Commissariat des Nations Unies aux droits de l'homme et d'autres bonnes volontés pour leur réalisation effective.

Monsieur le Président,

Dans la quête d'une plus grande solidarité entre les institutions nationales africaine, le Président du Comité Africain de coordination a effectué des missions d'information et de concertation auprès des institutions nationales soeurs de la Gambie et du Sénégal.

D'autres visites de travail programmées avec les Commissions Nationales du Niger, du Mali, du Burkina-Faso, de l'Ouganda et du Bénin n'ont pu être effectuées faute de budget alloué à la coordination.

Par ailleurs, beaucoup de pays qui n'avaient pas d'institutions nationales des droits de l'homme ont été sensibilisés et invités à envisager d'en créer. Nous sommes heureux d'annoncer que toutes les institutions nationales africaines existantes et celles qui viennent d'être crées ont affirmé leur désir de coopérer avec le Haut Commissariat des Nations Unies aux droits de l'homme et du CIC, comme le prouve les résultats des travaux d'accréditations du CIC où l'Afrique figure par son plus grand nombre d'institutions reconnues.

Pour se conformer à l'engagement pris par les institutions nationales africaines à Lomé d'oeuvrer à une plus grande solidarité entre elles et de réfléchir à toutes les formes bénéfiques d'une meilleure coopération avec le Haut Commissariat des Nations Unies aux droits de l'homme, le Comité International de Coordination et les ONG des droits de l'honne, la présidence de la Coordination africaine travaille à une harmonisation permanente des vues du groupe.

Ces différentes préoccupations étaient au centre des discussions lors de la réunion de concertation des membres du Comité de Coordination du groupe africain des institutions nationales des droits de l'homme à Rabat des 7 au 9 avril 2002. A cette occasion, le bureau de coordination a procédé à une évaluation des voies et moyens devant favoriser l'intégration du groupe. Les différentes orientations et stratégies envisagées augurent des résultats meilleurs.

La 4$^{ème}$ Conférence Africaine des Institutons Nationales des droits de l'homme que le groupe africain se prépare à organiser en Ouganda nous permettra de mesurer les efforts supplémentaires accomplis par nos institutions pour garantir davantage le respect

de la dignité humaine et de l'égalité.

En dépit d'un environnement économique défavorable, les institutions nationales africaines conformément à leur mandat spécifique ont réalisé diverses activités de promotion, de protection et de défense des droits de l'homme qu'il parait fastidieux d'énumérer ici.

Nous espérons qu'à l'occasion des prochaines sessions de la Commission des droits de l'homme, la parole sera donnée à chacune des 25 institutions de notre groupe pour s'exprimer devant vous, et présenter le bilan de leurs actions.

Par ailleurs, pour asseoir les bases d'un fonctionnement harmonieux du Comité Africain de Coordination des dispositions sont en cours au niveau de notre région pour doter le Comité d'un règlement intérieur et d'un Secrétariat assuré par l'institution nationale Sud-Africaine.

Nous saluons l'oeuvre des regroupements régionaux des institutions nationales des droits de l'homme comme le Forum Asie-Pacifique, le Comité de Coordination du groupe européen, ainsi que des initiatives en cours au niveau du Commonwealth et de la Francophonie.

Monsieur le Président,

Le respect des droits de l'homme étant une condition préalable pour un véritable développement durable, je voudrais du haut de cette tribune au nom de mes collègues du groupe africain lancer un vibrant appel pour l'octroi d'une assistance plus accrue aux pays de mon continent et dont la mien, le Togo, qui continue de faire des progrès en matière de l'éducation aux droits de l'homme.

Monsieur le Président,

Mesdames et Messieurs,

Pour terminer mon propos, je tiens une fois encore, au nom du Comité africain de coordination des institutions nationales et de celui du Togo, dont j'assure également la présidence, à saluer l'action énergique et courageuse de Madame Mary Robinson qui a su, avec la lucidité et l'autorité que nous lui connaissons, maîtriser les soubresauts de ce navire d'espoir pour le monde habité. Oui, elle mérite nos hommages, nos encouragements, pour son soutien indéfectible aux institutions nationales des droits de l'homme.

Je vous remercie.

# EL DESARROLLO DE LA RED DE INSTITUCIONES NACIONALES DE PROMOCIÓN Y PROTECCIÓN DE LOS DERECHOS HUMANOS DEL CONTINENTE AMERICANO

**(Informe de la Secretaría *pro témpore* de la Red ante el 58 Período de Sesiones de la Comisión de los Derechos Humanos, Ginebra, 18 de abril de 2002)**

**Sr. Presidente,**
**Sres. Representantes de los gobiernos y de las ongs,**
**Distinguidos colegas:**

Ante la rápida proliferación de Instituciones Nacionales en todos los continentes durante la última década se ha vuelto indispensable la organización de las Instituciones Nacionales por regiones, a fin de poder realizar con mayor eficacia las labores de coordinación entre ellas mismas y con las instituciones competentes de la Organización de las Naciones Unidas. Sin embargo, el Continente Americano mostró cierto retraso en el desarrollo de una red regional de Instituciones Nacionales en comparación con lo que ocurría en otras partes del mundo.

Este rezago se puede explicar, paradójicamente, por la temprana creación de la Federación Iberoamericana de Ombudsman, que constituye una red regional que aporta un valioso servicio a sus miembros pero que no esta constituida dentro del marco del Comité Internacional de Coordinación por diversos motivos. Entre estos destacan la inclusión de instituciones del continente europeo, como el Defensor del Pueblo de España, el Proveedor de Justicia de Portugal y el Mediador del Principado de Andorra. Dicha federación incluye también instituciones provinciales, estatales, regionales y autonómicas, pero no incorpora a las Instituciones Nacionales de los países de la región que no son iberoamericanos, en particular a la Comisión Canadiense de los Derechos Humanos y a las instituciones de los países del Caribe.

Por este motivo, en 1999, se convocó a la Primera Reunión de Instituciones Nacionales del Continente Americano, en Tegucigalpa, Honduras, donde se estableció el compromiso de crear una Red de Instituciones Nacionales de la región constituidas de conformidad con los Principios de París. Un año después, en la Ciudad de México, se adoptó el Acta de Creación de la Red, firmada por los representantes de las Instituciones Nacionales de Argentina, Bolivia, Canadá, Ecuador, Honduras, México y Perú. La Comisión Nacional de los Derechos Humanos de México fue designada Secretaría *pro témpore* de la Red y se creó un Grupo de Trabajo para elaborar un proyecto de Estatutos.

Finalmente, en marzo de 2002, en Kingston, Jamaica, se celebró la primera Asamblea General de la Red de Instituciones Nacionales Promotoras y Defensoras de los Derechos Humanos del Continente Americano, donde se incorporaron las instituciones de Colombia y Costa Rica, con lo que el número de miembros aumentó a nueve, y se contó con la presencia de varias instituciones del Caribe y de América Latina que participaron como observadores.

La Asamblea aprobó sus estatutos y eligió al Comité de Coordinación de la Red que quedó integrado por la Comisión Canadiense de Derechos Humanos, la Comisión Nacional de los Derechos Humanos de México, la Defensoría del Pueblo de Colombia y la Defensoría de

los Habitantes de Costa Rica. También se analizaron un Plan Estratégico y un Esquema de opciones para el eventual establecimiento de un Secretariado Permanente.

De gran importancia fueron los apoyos otorgados por la Comisión Canadiense de los Derechos Humanos y la participación de funcionarios de la Oficina del Alto Comisionado de Naciones Unidas para los Derechos Humanos, tanto para el desarrollo de la Asamblea misma como para la celebración de un Taller sobre Derechos de los Pueblos Indígenas, que tuvo lugar al término de la Asamblea como seguimiento de los compromisos adquiridos en la Conferencia Mundial sobre Racismo, Discriminación Racial, Xenofobia y Formas Conexas de Intolerancia.

Los participantes del Caribe expresaron su reconocimiento a los miembros de la Red por su acogida en este mecanismo regional de coordinación y fortalecimiento de las Instituciones Nacionales y se propusieron tomar cuanto antes las medidas necesarias para cumplir cabalmente con los Principios de París y poder participar como miembros de pleno derecho en la Red.

Finalmente, se aprobó el Consenso de Kingston, documento que recoge las principales conclusiones y compromisos adoptados entre los cuales pueden destacarse:

- Establecer, mantener y promover una cultura de respeto a los derechos humanos en la región;
- Implementar los Principios Relativos al Estatuto y Funcionamiento de las Instituciones Nacionales para la Protección y Promoción de los Derechos Humanos (o Principios de París);
- Promover el reconocimiento y la aplicación de los convenios, recomendaciones y, cuando procedan, las sentencias del sistema interamericano e internacional en materia de derechos humanos por parte de los gobiernos de los Estados;
- Fortalecer de manera individual y colectiva a las Instituciones Nacionales del Continente Americano y apoyar el desarrollo de las Instituciones emergentes de todos los países de la región;
- Incrementar la cooperación con las organizaciones no gubernamentales dedicadas a promover y proteger las libertades fundamentales y los derechos humanos;

Las Instituciones Nacionales que participaron en la Asamblea General de la Red acordaron también incrementar la cooperación con el Comité Internacional de Coordinación, la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, la Organización de los Estados Americanos y las asociaciones regionales de derechos humanos tales como la Asociación del Ombudsman del Caribe, el Consejo Andino de Defensores del Pueblo, el Consejo Centroamericano de Procuradores de Derechos Humanos y la Federación Iberoamericana de Ombudsman.

Al término de la Asamblea General se celebró el Taller sobre Derechos de los Pueblos Indígenas, en el que las Instituciones Nacionales asumieron el compromiso de promover el reconocimiento de los derechos fundamentales de los pueblos indígenas, así como de los mecanismos de participación de los mismos en los temas de su interés tanto a nivel nacional como internacional. El Taller llegó a los siguientes acuerdos:

1. Asegurar la adopción de una política de trabajo que garantice el respeto del principio de no discriminación, incluyendo la perspectiva de género y la cultural;
2. Incorporar dentro del Plan de Trabajo de la Red, en forma prioritaria, la temática de la promoción y protección de los Derechos de los Pueblos Indígenas;
3. Constituir un grupo de trabajo al interior de la Red a fin de promover, desarrollar y dar seguimiento al Plan de Trabajo;
4. Impulsar el cumplimiento de los compromisos adoptados durante la Conferencia de Durbán, así como los de la Conferencia Regional de las Américas celebrada en Santiago de Chile en diciembre del 2000;
5. Difundir entre los pueblos indígenas de la región su derecho a participar como observadores en las sesiones del Foro Permanente para las Cuestiones Indígenas;
6. Promover la participación de las Instituciones Nacionales de la Red en el Foro Permanente para las Cuestiones Indígenas así como en otros espacios de deliberación y acuerdo, tanto a nivel regional como internacional;
7. Instar a la Oficina del Alto Comisionado de Naciones Unidas para los Derechos Humanos a continuar apoyando, de manera sostenible, la labor de la Red en el desarrollo de su Plan de Trabajo.

Señor Presidente:

En una región plena de actividad, son considerables los retos del presente y del futuro. Es necesario continuar apoyando la expansión del movimiento de las Instituciones Nacionales: Brasil, Chile y Uruguay aún no cuentan con sus respectivas Instituciones Nacionales; en Paraguay es de nueva creación y requiere de apoyo para su consolidación; en la República Dominicana se aprobó el marco jurídico pero aún no se ha designado a su titular, en el Caribe son muchas las naciones que aún no cuentan con esta figura y las existentes no cumplen con los Principios de París.

Por su parte, la Defensoría de los Habitantes de la República de Costa Rica, que está constituido de conformidad con los Principios de París, se esfuerza por elevar a rango constitucional su ordenamiento legal como una mayor garantía de independencia institucional.

A la Comisión Canadiense de Derechos Humanos le preocupa que la legislación antiterrorista adoptada por el gobierno de su país el presente año, sea limitante de los derechos humanos, recordando que el Secretario General Kofi Annan advirtió a la Comisión de los Derechos Humanos de las Naciones Unidas que la lucha contra el terrorismo no puede ser utilizada como justificación para la violación de los derechos fundamentales de la persona.

En Argentina, el Defensor del Pueblo enfrenta, entre otras, quejas derivadas del proceso de ajuste económico que se vive en ese país. En días pasados, las instituciones del Continente Americano asistentes a la 6ª Conferencia Internacional para Instituciones Nacionales de Derechos Humanos, celebrada en Copenhague y Lund, hicieron un llamado al gobierno provisional impuesto en Venezuela tras el golpe de Estado, que resultó de corta duración,

para que respetara los derechos humanos establecidos en la Constitución, las instituciones democráticas y en particular a la Defensoría del Pueblo.

En México, la Comisión Nacional de los Derechos Humanos hace un cuidadoso seguimiento de la forma en que las autoridades cumplen con la Recomendación emanada de la investigación que realizó sobre las 532 desapariciones forzadas que tuvieron lugar en la década de los años setenta y principios de los ochenta, la primera Recomendación dirigida a un Presidente de la República.

En numerosos casos se han alcanzado logros considerables no obstante la existencia de circunstancias adversas. En Colombia, por ejemplo, a pesar del conflicto armado que se vive en el país, el Defensor del Pueblo promovió con éxito la aprobación de un acto legislativo que eliminara las barreras constitucionales para la ratificación del Estatuto de Roma.

De otro lado, el mismo Defensor demandó ante la Corte Constitucional la Ley de Defensa y Seguridad por vulnerar el principio de la separación de poderes y poner en peligro la primacía del poder civil sobre el militar. Recientemente, la Corte Constitucional declaró la inconstitucionalidad de dicha ley. También, en este país, la Defensoría ha puesto en marcha un programa dirigido a promover la efectividad de los derechos económicos, sociales y culturales, mediante la aplicación de indicadores de desarrollo humano a las políticas públicas que afectan particularmente a los grupos más vulnerables de la población.

En Bolivia la Defensora del Pueblo ha promovido con singular aprecio los derechos de la población indígena. Igualmente los avances en el reconocimiento de los derechos de la mujer no son ajenos al empeño que en esta materia ha demostrado la Defensora.

En Perú, la Defensoría del Pueblo se comprometió a fondo en la defensa del principio democrático y su papel fue muy destacado para asegurar la transparencia electoral.

En toda la región se presenta la cuestión de los derechos de los pueblos indígenas y de la pobreza. Con excepción de Canadá, se enfrenta también el problema del subdesarrollo, que genera fenómenos como la migración, la falta de atención a las personas con discapacidad y a otros grupos vulnerables, así como el incumplimiento sistemático de los derechos económicos, sociales y culturales, frecuentemente agravados por la discriminación por razones de género.

No obstante estas y otras dificultades, las Instituciones Nacionales han demostrado su eficacia en la tarea de promoción y defensa de los derechos humanos. Ello explica su proliferación en nuestra región en los últimos años. Esta expansión, sin embargo, aún no ha llegado a todos los países por lo que es necesario promoverla y apoyarla. Al mismo tiempo, debe lograrse que la difusión de las Instituciones Nacionales se dé sin demérito de sus características esenciales. Deben evitarse a toda costa la creación de instituciones que no sean capaces de cumplir con su función, en particular, el recurso abusivo a esta figura con fines espurios, orientado a disimular más que a evitar los abusos del poder contra los derechos fundamentales de las personas.

Por ello, la proliferación de la figura de las Instituciones Nacionales, frecuentemente con características particulares adaptadas a las condiciones propias de cada país, exige una

vigilancia permanente. Asimismo, su desarrollo requiere no sólo de monitoreo, sino también de una labor de apoyo y de formación, encaminadas a perfeccionar instituciones que en ocasiones surgen con limitadas facultades, fruto de buenos deseos que enfrentan oposición, de insuficiencia de recursos presupuestales o de compromisos entre fuerzas sociales que no permiten alcanzar, desde un primer momento, las condiciones que garanticen una adecuada protección de los derechos humanos.

Si bien la principal responsabilidad de las Instituciones Nacionales es en el ámbito de su competencia nacional, la colaboración y unión de esfuerzos a nivel internacional ha demostrado ser, en la experiencia de la Organización de las Naciones Unidas, un mecanismo eficaz para remontar dificultades y resolver problemas que aquejan a la humanidad. De ahí la importancia de la participación de las Instituciones Nacionales en el Comité Internacional de Coordinación y de la colaboración con la Oficina del Alto Comisionado de las Naciones Unidas. Los integrantes de la Red del Continente Americano estamos empeñados en esta tarea.

# STATEMENT

BY THE FIJI HUMAN RIGHTS COMMISSION

AT THE 58TH SESSION OF THE COMMISSION ON HUMAN RIGHTS, 2002

AGENDA ITEM 18 (b).

Chairperson, Madame High Commissioner, Excellencies, Distinguished Members of the Commission, Colleagues.

I speak to you today as a representative of the Fiji Human Rights Commission, a National Institution established by the Constitution to protect and promote human rights in Fiji. As you will know Fiji is a small but internationally significant island nation in the South Pacific, although we may be known these days more for our cycle of political upheavals than for our historically famous friendly dispositions and warm hospitality.

However, distinguished Members and Colleagues, it is perhaps our determination as a people to think through our issues and problems, notwithstanding the failure of standards of good governance and human rights on occasion, that gives us encouragement within our National Institution to work diligently to defend and promote the rights of all citizens of Fiji.

In my remarks today, I will confine myself only to a few issues of concern to our Commission which is the first and only National Human Rights Institution in the Pacific Island states. Pacific Island countries are of course usually made rather invisible within the vast Asia-Pacific region. But the smallness of our islands should not lead people to think that we are geo-politically insignificant, or indeed that the smallness of our size must also mean a weakness in our voice. Not at all. You will recall that Pacific Island states led the international anti-nuclear and de-colonisation movements of the early 1970s, and expressed most forcefully the ideals of self-determination and the right to development. These are only now on the international agenda as legitimate topics for discussion. For us in the Pacific these were always human rights issues, and I am proud to say, distinguished Members and Colleagues, that Fiji was one of the leaders of

those early human rights debates, incorporating economic, social and cultural rights and the right to development into our discussions of civil and political rights.

Such an understanding of the interconnectedness of different aspects of human rights provided the impetus for the establishment of the Fiji Human Rights Commission three years ago. The Commission is a constitutional body, with the duty to protect and promote human rights, first by educating the public about national and international human rights law, secondly by advising Government about its necessary compliance with international human rights norms and principles, and thirdly by receiving, investigating and resolving complaints of human rights violations. The Commission's complaints functions allow us to go to court if our conciliation efforts fail.

The Bill of Rights chapter of the Constitution of Fiji contains a comprehensive set of human rights provisions; indeed, in some respects, an improvement even on many international human rights laws. For example, the rights of individuals are balanced with the rights of communities, without compromising one or the other. Similarly, economic, social and cultural rights are incorporated within civil and political rights; and there is even a chapter on social justice for the disadvantaged-in land, housing and access to public service and commerce. These are unique features; also powerful because all these rights are justiciable, with the Human Rights Commission of Fiji having been given the responsibility to defend and protect them on behalf of the people.

Ladies and Gentlemen, with the provision of such a comprehensive set of rights in our domestic law, the Fiji Human Rights Commission has had time to reflect upon the broader issues of human rights.

Accordingly, we have discussed these issues under two main headings, firstly, that of the philosophy or ideal of human rights and second, of the praxis of human rights. We have been forced to consider these issues in these terms because of the many recent interpretations of human rights as a western concept, and, like democracy, a foreign flower, bringing chaos into families and community-based societies with a different set of values. In addition, we have also had to consider whether indigenous rights is an appropriate and acceptable justification for discrimination.

For the first philosophical question, that of human rights as a western concept, the Commission has adopted a particular tactic in defining human rights. It explains human rights as 'justice': a concept understood by all our communities as having relevance to them historically. Justice is explained further as fairness in decision-making, that is, in being able to reach a decision only after all relevant factors are taken into account. Such a definition of fairness seems to strike a cultural chord in our communities. Once the definition of human rights is accepted as encompassing justice and fairness, the concept of rights itself no longer seems like a western idea; indeed it is obviously our own invention, stolen by the westerners!

Secondly, the Commission has adopted a determined position with respect to indigenous rights as a justification for race-based discrimination. It has steadfastly refused to accept the idea of supremacy of any ethnic or racial group whether on the ground of indigeneity or any other ground. The Universal Declaration of Human Rights is the benchmark for the Commission's standpoint on equality, supported by our Constitutional protection of individual as well as group rights. The Commission believes that indigenous rights are adequately protected in our Constitution; they are relevant for the protection of inherited chiefly titles, communal land, and governance of the indigenous

peoples of themselves and resources under their own control, as provided for under section 38 of the Constitution. Any more than this would breach the Convention on the Elimination of Racial Discrimination (CERD) which Fiji ratified in 1973, notwithstanding our reservations to some of its key Articles. The Commission has in any event recommended that these reservations should be removed as they are not consistent with current thinking on race and ethnicity. Ladies and Gentlemen, these are the two main philosophical human rights issues that have been considered by the Commission.

On the operational side, the concept of praxis has been adopted by the Commission in its work. This was after due consideration of our technical shortcomings as a state-funded provider of human rights services to the public. For example, there is a natural inclination to adopt a cautious approach to every human rights complaint against the State, and of course the timing of requests to the State to respond to allegations of human rights abuses is also measured very carefully. State funding of human rights institutions such as ours reveals other problems such as allocation of funding by the Ministry of Finance, which has to distribute funds among many competing interests and the focus of governments these days on income generating, investments oriented, profit-making ventures. Human Rights Commissions do not fall into these categories for funding and the Fiji Commission has already pointed out to our Government the negative effect of this type of prioritising on our human rights work. In fact such weakness within the National Institutions mechanisms should be considered by the Office of the High Commissioner for Human Rights as not conforming to the Paris Principles.

Another problem is the difficulty of trying to steer a human rights vessel, as steadily as possible, through the shark-infested waters of political party

affiliations. Independence of Human Rights Commissions from politics is absolutely necessary if we want to fulfil our duty to the public.

The Fiji Human Rights Commission has utilized the concept of praxis to cope with both funding issues and politics. It has formed partnerships with civil society organisations and other actors such as the army, police, prisons on the one hand and teachers' organisations on the other. The Commission has thus been able to draw upon its broad support from institutions other than government. To this end we are committed to formulating a national plan of action for human rights education which aims to teach human rights through the core curriculum in schools, and to write a handbook for the disciplined services which will allow the army and police to fulfil their obligations towards national security without compromising human rights laws. These projects are being undertaken in partnership with the agencies concerned, so that human rights praxis strategies are not only decided by consensus; there is also ownership of them by the institutions most often accused of breaching human rights laws.

For the Fiji Human Rights Commission, the idea of praxis is indeed both philosophical and practical. There is a dialectical approach to the delivery of human rights services in partnership with civil society groups, and although this can be a difficult path, we believe that it is also more likely to be effective, (including cost-effective), sustainable, and indeed profitable for the whole nation in the long run. Most usefully, it will, perhaps in the longer term, instill a sense both of rights and responsibilities in our young people. Our Bill of Rights does contain a respectable measure of duties and obligations as well as rights and freedoms.

We believe that only a fearless defence of human rights as a universal standard of justice and fairness will take us to where we would like to go as a nation-to be independent, forthright, determined to do the right thing, and above all, earning our rightful place one day as a Pacific Island state, on an equal basis, with other respected States represented here on the Commission on Human Rights.

Distinguished Members of the Commission, High Commissioner, Madame, dear Colleagues, on behalf of the Fiji Human Rights Commission, I thank you for this opportunity to address you today.

**Dr Shaista Shameem**

**Director**

**Fiji Human Rights Commission**

**April 2002**

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# REPORT BY NATIONAL HUMAN RIGHTS INSTITUTIONS IN EUROPE

**Presented by Morten Kjaerum, chairman of the European Coordinating Group of National Human Rights Institutions (Director, the Danish Centre for Human Rights) and Jenny Olausson, The Office of the Disability Ombudsman in Sweden.**

**(National Institutions will submit their written reports separately)**

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Mr. Chairman, distinguished ambassadors, ladies and gentlemen

It is a great honour for me to address the UN Human Rights Commission on behalf of the European national human rights institutions. This annual dialogue between the Commission and national human rights institutions is one of the concrete, continuing outcomes of the UN World Conference on Human Rights in 1993. The World Conference recognised the need for practical measures to implement international human rights norms and standards at the domestic level. It identified national institutions as good mechanisms to achieve that. National institutions are very close to the problems that people face and they are often in a good position to suggest ways and means to remedy both individual and systemic human rights violations. Our dialogue each year reflects the common interest of both states and national institutions in an open exchange about the difficult human rights issues with which national institutions work each day.

European national institutions, therefore, are greatly disappointed that this year the time allocated to our dialogue has been drastically reduced to merely one hour. We recognise the time constraints on the Commission. However to allocate only one hour out of a total of at least 180 meeting hours is utterly disproportionate to the importance of these institutions as recognised in the Declaration and Plan of Action from the World Conference on Human Rights and in the Declaration and Programme of Action from the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. We anticipate an early discussion between the bureau of the Commission and the International Coordination Committee for National Human Rights Institutions (ICC) about the format and character of the dialogue at the 59th Session of the Commission in 2003 and subsequent sessions. The European group supports the statements made by the president of the ICC.

This unfortunate situation at this session of the Commission runs counter to the increasing recognition by other inter-governmental organisations of the importance of national institutions. Last year the Council of Europe decided to grant the European Coordinating Group for National Institutions observer status in the human rights steering committee of the Council of Europe. This is perceived as a natural development in the good dialogue between the Council of Europe and national institutions, which was reinforced by the 1998 resolution establishing the roundtable between the Council and the national institutions. The second roundtable will be held this year in Ireland and Northern Ireland. European national institutions have also been active at the global level. The Danish Centre for Human Rights and the Swedish Ombudsman against Ethnic Discrimination were very pleased to host the 6th World Conference for National Human Rights Institutions in Copenhagen last week. The Chairman of the ICC has already spoken about the Copenhagen Declaration, a forward looking and practical document.

Mr. Chairman, let me highlight, on behalf of the national institutions in Europe, four particular issues that have preoccupied us during the last year. They are (1) the impact on human rights protection of the fight against terrorism, (2) the increase in racially motivated attacks, (3) the obligation of States to fulfil the rights of people with disabilities and (4) threats to the independence of national institutions.

The impact on human rights protection of the fight against terrorism was discussed at the national level and also at the Euro-Mediterranean Meeting of National Institutions held in Athens in November last year as well as in our dialogue with the Council of Europe. The fight against terrorism is a concern for national human rights institutions as it is for everyone else when we see in so many parts of the world the continued practices of terrorism by individuals, organisations and states. Terrorism violates human rights but it will not be eliminated by other human rights violations

Some of the laws introduced recently in European countries with the aim of combating terrorism give rise to concern and criticism that they fail to meet international human rights standards. National human rights institutions have raised these concerns in relation to new intrusive methods of investigation, wider access to surveillance and exchange of sensitive personal data between States, the extension of detention without formal charges, arbitrary limitations in the freedom of speech and freedom of assembly and so on. National institutions have warned that initiatives aimed at combating terrorism must not encroach on such fundamental rights and liberties through restrictions that are inconsistent with the objective of protecting human rights. International human rights norms, as we know them today, were developed in response to the horrors of genocide, war and other forms of conflict. They recognise that there can be a delicate balance between protecting the interests of broader society and protecting the rights of individuals. National institutions affirm that the legitimate fight against terrorism can be and must be conducted with full respect for international human rights norms.

Mr Chairman, national human rights institutions in Europe are concerned about the persistence of racism, racial discrimination and racially based violence. This is evident in discriminatory treatment of people with Roma background, the difficulties in accessing education for children of asylum seekers and people without residence permits, and the double discrimination that many women from racial and ethnic

minorities face in their daily lives. We are particularly worried by the increase in recent months in anti-Semitic and anti-Islamic assaults. As it was set out in the Durban Declaration and Programme of Action national institutions realise that they have an important role to play in combating the hostile stereotyping leading to these assaults by working with the media, focussing education to special target groups, in particular young people, and reminding politicians about their leadership responsibilities. Finally, national institutions in several European countries have urged their governments to reconsider new more restrictive asylum legislation, because draft laws have not complied with international human rights standards.

We welcome the initiative of the European Union to address the issue of racism and discrimination through the Charter of Fundamental Rights. We welcome in particular the broad scope of the non-discrimination article, which covers areas such as disability, age and sexual orientation in addition to race, colour and ethnicity. This is an important development in the fight against discrimination, because discrimination in one area can only be combated if the very notion and acceptance of any form of discrimination is effectively addressed. Equally important is the new protocol 12 to the European Human Rights Convention adopted by the Council of Europe

Mr. Chairman, in relation to this broader issue of discrimination the third issue European national institutions wish to address is the rights of people with disability. Allow me to hand over to Jenny Olausson, representing the Swedish Disability Ombudsman.

Human rights are the foundation on which to prevent discrimination against people with disabilities and to ensure everybody full participation and equal opportunities in society. Disability policy measures must be seen as a natural part of the efforts to live up to human rights. Disability policy is still often viewed primarily as a social issue. People with disabilities are still far too often seen solely as object of care. National human rights institutions have an important role to play in changing this perspective towards a rights-based perspective and in preventing and fighting discrimination against people with disabilities.

The right to vote is a fundamental citizen's and democratic right. Despite this disabled people cannot always take it for granted that they will be able to vote on the day of election. This is the case when polling stations have shortcomings what accessibility is concerned. When premises used for municipal council meetings do not provide access for disabled people, or do not make adapted information available on request citizens are excluded from information about and participation in political debate and are prevented from being politically active. But against the background of human rights no one can assert that creating an accessible environment to enable disabled persons to take full part in community life is merely a socio-political issue.

The European national human rights institutions welcome that the Commission has invited the High Commissioner for Human Rights, in co-operation with the Special Rapporteur on Disability, to examine measures to strengthen the protection and monitoring of the human rights of persons with disabilities. We also welcome the Study on Human Rights and disability written by the Professors Gerard Quinn and Theresia Degener.

The future development towards improved living conditions for persons with disabilities must build on strong international promotion of human rights and democratic values. We appeal to this Commission to use this opportunity to introduce measures, which in a tangible way will strengthen the protection of the human rights of persons with disabilities. Through the study by Professors Quinn and Degener the Commission have a unique opportunity to initiate a number of effective and reasonable measures, which would mean a difference.

In December 2001 the UN General Assembly decided to establish an ad hoc committee to consider proposals for an integral and comprehensive international convention to protect and promote the rights and dignity of disabled people. It is of fundamental importance that organisations of disabled people and national human rights institutions will be given real possibilities to actively participate in the elaboration of a convention. Furthermore, we would like to emphasise that the elaboration of a convention must take place within the context of established United Nations human rights norms and principles.

Mr Chairman, national human rights institutions have important roles in implementing international norms at the national level. We have so far discussed three issues – ensuring human rights during the fight against terrorism, action against racism and racial discrimination and protecting the rights of people with disability. These issues can be addressed by effective, independent national human rights institutions that comply with the Paris Principles. The 6th World Conference for National Institutions recognised this. The Copenhagen Declaration adopted by the Conference appealed to states to respect the independence of national institutions. Unfortunately, recently in Europe some States have proposed changes in the laws governing their national institutions that would have hampered their independence and effectiveness. Fortunately, so far none of these proposals have been implemented. This Commission and the General Assembly have called again and again for States to establish and support independent national institutions because they recognise the importance of these institutions in advancing respect for human rights. Any action against existing institutions that restricts or removes their independence is contrary to the increased international focus on the implementation of human rights in all societies. National institutions at the regional level and internationally will follow this situation closely. We are committed to mutual support in these human rights efforts and seek a similar commitment from all States.

Thank you very much for your attention.

**Statement to the Commission on Human Rights**
**Submitted under Agenda Item 18(b) by Dr William Jonas**
**Australian Human Rights and Equal Opportunity Commission**

1. I am Dr William Jonas, Aboriginal and Torres Strait Islander Social Justice Commissioner and Acting Race Discrimination Commissioner for the Australian Human Rights and Equal Opportunity Commission.

2. Our Commission was originally established in 1981 as the Australian Human Rights Commission and then restructured in 1986 to become the Australian Human Rights and Equal Opportunity Commission. We are thus one of the oldest National Human Rights Institutions in the Asia-Pacific region. As such, we have been able to share our experience in developing skills and jurisprudence with newer National Human Rights Institutions in the region. This interchange has been especially enhanced with the formation of the Asia Pacific Forum of National Human Rights Institutions (the APF) by the Larrakia Declaration signed at Darwin, Australia, in 1996. As one of four founding members – the others being India, Indonesia and New Zealand – our Commission has played a key role in the establishment and strengthening of the APF by providing both technical and financial support. The APF has now matured into its own legal entity and our Commission looks forward to building on our relationships with the Forum members in this new phase of its development.

3. Some of the functions and responsibilities of the Australian Commission that have been especially important (and successful) to its role of developing and promoting human rights within Australia have also been of most interest to other National Human Rights Institutions in the Asia-Pacific region and elsewhere.

4. First, our Commission is empowered to conduct national inquiries into important human rights issues in Australia. In the course of a national inquiry the Commission consults widely, undertakes research, examines laws, policies and practices affecting human rights and then reports to the Australian Parliament on what actions are required for Australia to meet its international human rights obligations. Under this function the Commission has reported on the removal of Aboriginal and Torres Strait Islander children from their families and is currently working on a National Inquiry into Children in Immigration Detention. This inquiry will investigate the impact of detention on the well-being and healthy development of children and ways in which the best interests of young asylum seekers can be promoted and protected both in detention and after their release into the community.

5. Secondly, the Commission strategically uses its powers to appear before Australian courts in matters that raise human rights issues. The Commission has the power to intervene in a case, with the leave of the court, and thus become a party to the case. Our Commissioners also have the power to appear as amicus curiae (the common law function of friend of the court) in discrimination cases. Both of these functions serve not only to protect parties' human rights but also to develop Australian jurisprudence concerning human rights thereby further promoting their protection.

6. Thirdly, the Commission has demonstrated a strong commitment to its education function by developing on-line resources for use in Australian schools. In December 2001 Professor Tay, President of the Commission, launched the on-line secondary school resource 'Youth Challenge' which has met with praise from students, teachers and government. The Commission is currently developing further on-line educational resources to build upon our initial success in this area.

7. As the World Conference Against Racism recognised, racism remains a systemic and perhaps innate reaction against those who are different. We are happy to say that in Australia racial problems have, in more recent times, sought their outlets through violence relatively rarely. Nonetheless, racism continues to manifest itself in other dramatic ways: the Indigenous imprisonment rate is almost fifteen times that of non-Indigenous people despite Australian Indigenous people comprising less than three per cent of the population, and Indigenous life expectancy is twenty years lower than for non-Indigenous Australians. The Committee on the Elimination of Racial Discrimination has also commented on the effects of Australia's racially discriminatory land legislation which acutely impairs the rights of Australian Indigenous communities.

8. It is with all this in mind that our Commission joined in the preparations at local and regional levels for the World Conference Against Racism and participated at the Durban meetings in some strength. Our Commission is continuing its commitment to Australian communities through a range of post-Conference consultations and a major national conference.

9. I would like to close by paying tribute to Mrs Mary Robinson who, in her time as High Commissioner for Human Rights, has placed great emphasis and importance on the role of national institutions and has remained a good friend of our Commission and the Asia-Pacific Forum. We thank the High Commissioner for ensuring that National Human Rights Institutions were able to address the World Conference separately from government delegations and support the extension of this practice to other UN conferences and forums. We look forward to seeing the High Commissioner continue to exercise her considerable skills on other fronts and in the challenge for universal protection of the rights of humankind.

10. Thank you.

CANADIAN HUMAN RIGHTS COMMISSION
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

MICHELLE FALARDEAU-RAMSAY, Q.C.
CHIEF COMMISSIONER
CANADIAN HUMAN RIGHTS COMMISSION

MICHELLE FALARDEAU-RAMSAY, C.R.
PRÉSIDENTE
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

**United Nations Commission on Human Rights**
**58th Session**

**58e session de la**
**Commission des droits de l'homme des Nations Unies**

*Institutions nationales et ententes régionales/*
*National Institutions and Regional Arrangements*

Mr. Chairman, a few weeks ago, the Canadian Human Rights Commission tabled its Annual Report for 2001. The report provides a picture of the health of human rights across the nation. Canada has the reputation as a place where people from every corner of the world can live in harmony, enjoying mutual respect and tolerance. It is a pluralistic society that values multiculturalism and encourages diversity. Canada is seen as a country that accepts immigrants and refugees from different backgrounds. This reputation is, to a large extent, well deserved.

However, post-September 11 society has brought into stark relief the close connection between external events and the human rights situation within Canada. These tragic events were also a reminder that racism is part of our social fabric. In the weeks and months after September 11, there were attacks against Canadians of Arab origin, Muslims, and others. Places of worship — Muslim, Jewish, and Hindu — were defaced and, in one instance, burned to the ground. People on the street were subjected to racist taunts because of the way they dressed, looked, or sounded.

Although this extreme expression of racial discrimination was in reaction to exceptionally tragic events, these events forced us to reflect on our society and the world, and to accept that we remain very far from the full realization of human rights.

Of course, calls for additional resources to address security concerns were responded to with alacrity last Fall. And I must stress that we certainly do not question the need for protecting the physical security of Canadians; but we must recognize the equally important need to ensure that the very intolerance preached by the terrorists does not take root in Canada, or anywhere else in the world, for that matter.

The Government of Canada's legislative response to these events raised concerns regarding civil liberties in Canada, some of which were addressed after interventions by the Canadian Commission and other interested groups. But most importantly, while responding to very legitimate concerns, this response indirectly fed into our "collective unconscious." Racism is part of the psyche of our society.

In our haste to introduce new measures to counter terrorism, we must not put in place measures that exceed this aim, thus jeopardizing human rights. Let's fight back against terrorism and violence by bringing the guilty to justice, but in our haste to do so, let us not endanger the innocent or abandon the very rights and freedoms which are the terrorist's targets.

Mr. Chairman, participants of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance recognized the important role of national human rights institutions in providing effective and appropriate protection and remedies to victims of human rights violations resulting from racism.

As we now work to implement the vision we adopted at the World Conference, we must find new ways to address the root causes of racism. However, we must realize that we cannot work in isolation if our goal is to promote and protect human rights. This means that national human rights institutions, governments and civil society will have to devise common strategic approaches to address human rights violations and their root causes.

One way of doing so is for human rights institutions to increase cooperation and share their experience. There are various international and regional networks that play this very role. A few weeks ago, the Canadian Human Rights Commission, along with more than a dozen human rights institutions of the hemisphere, created the Americas Network of National Human Rights Institutions. It brings together institutions from Northern, Central and South America, including institutions from the Caribbean. This is a first step in establishing a partnership in the Western Hemisphere, which I hope will play a leadership role in strengthening democracy in that part of the world.

In fact, I would argue that those networks of human rights institutions have not only proven their effectiveness in promoting and protecting civil and political rights, but can also become a crucial factor in ensuring the indivisibility of all human rights, including economic, social and cultural rights.

In conclusion, Mr. Chairman, governments, national human rights institutions and civil society must be proactive in protecting human rights and fighting intolerance. In one of humanity's darkest hours, we were heartened by the positive support of religious leaders, politicians, artists and musicians. Most important of all was the recognition by everyday citizens of the need to take action against intolerance.

I would argue that this is where the importance of national human rights institutions is reaffirmed in the most vibrant way: they are an essential element of any preventive strategy. Ultimately, our goal must be to prevent human rights violations, not simply provide redress. We cannot content ourselves with being only reactive.

Monsieur le président, il y a quelques semaines, la Commission canadienne des droits de la personne a déposé son *Rapport annuel* de 2001. Ce document brosse un tableau de la situation des droits de la personne au Canada. Notre pays a la réputation d'être un endroit où des personnes provenant de partout sur la planète peuvent vivre en harmonie, en s'accordant respect mutuel et tolérance. Le Canada est une société pluraliste où le multiculturalisme est valorisé et la diversité encouragée. Le Canada est perçu comme un pays qui accueille les immigrants et les réfugiés aux antécédents fort diversifiés. Dans une large mesure cette réputation est fondée.

Toutefois, l'après-11 septembre a fait ressortir le lien étroit qui existe entre les événements extérieurs et la situation des droits de la personne au Canada. Ces événements tragiques rappellent que le racisme fait toujours partie de notre tissu social. Dans les semaines et les mois qui ont suivi le 11 septembre, des attaques ont été perpétrées contre des Canadiens d'origine arabe, musulmane et d'autres. Des lieux de culte – musulmans, juifs et hindous – ont été vandalisés et, dans un cas particulier, rasés par un incendie. Des passants ont été visés par des injures racistes en raison de leurs vêtements, de leur apparence ou de leur parler.

Bien que cette expression extrême de discrimination raciale ait été en réaction à des événements exceptionnellement tragiques, ceux-ci nous ont forcés à réfléchir à notre société et à la situation mondiale, et nous nous sommes rendu compte qu'il nous reste encore beaucoup à faire avant de réaliser pleinement les droits de la personne.

Bien entendu, on a répondu promptement, l'automne dernier, à la demande de ressources supplémentaires pour faire face aux préoccupations en matière de sécurité. Je dois d'ailleurs souligner que nous ne remettons pas en question le besoin de protéger la sécurité physique des Canadiens. Mais, en même temps, nous devons reconnaître qu'il est aussi important de faire en sorte que l'intolérance prêchée par les terroristes ne s'installe pas au Canada ni ailleurs dans le monde.

Les mesures législatives que le gouvernement du Canada a prises en réponse à ces événements ont suscité des inquiétudes concernant les libertés civiles au pays. Et certaines de ces inquiétudes ont été abordées dans la foulée des interventions de la Commission canadienne et d'autres groupes intéressés. Mais ce qui est encore plus important, c'est que cette réponse, bien qu'elle vise des préoccupations légitimes, est indirectement liée à notre « inconscient collectif ». Nous devons nous rendre à l'évidence que le racisme fait partie du psychisme de notre société.

Dans notre hâte de faire échec au terrorisme, nous ne devons pas prendre des mesures qui soient excessives par rapport aux objectifs visés, mettant ainsi en péril les droits de la personne. Il faut certes lutter contre le terrorisme et la violence en traduisant les coupables en justice; mais dans notre empressement à le faire, il ne faut pas s'en prendre aux innocents ni laisser tomber les droits et libertés que les terroristes prennent justement pour cible.

Monsieur le président, les participants à la Conférence mondiale contre le racisme, la discrimination raciale, la xénophobie et l'intolérance qui y est associée ont reconnu le rôle important joué par les institutions nationales des droits de la personne en vue d'assurer la protection des victimes de violations des droits de la personne qui sont attribuables au racisme, et d'assurer également des mesures de redressement efficaces et indiquées.

Maintenant que nous voulons implanter la vision qui a été adoptée à la Conférence mondiale, nous devons trouver de nouveaux moyens de faire face aux causes profondes du racisme. Toutefois, il nous faut également nous rendre à l'évidence que nous ne pouvons travailler chacun de façon isolée, si l'objectif que nous visons est la promotion et la protection des droits de la personne. Cela signifie que les institutions nationales des droits de la personne, les gouvernements et la société civile devront adopter des démarches stratégiques communes pour lutter contre les violations des droits de la personne et leurs causes profondes.

Pour ce faire, les institutions des droits de la personne devront collaborer davantage et mettre leur expérience en commun. Divers réseaux internationaux et régionaux remplissent déjà ce rôle. Il y a quelques semaines, la Commission canadienne des droits de la personne et plus d'une douzaine d'institutions des droits de la personne de l'hémisphère ont créé le Réseau des institutions nationales pour la promotion et la protection des droits de l'homme des Amériques. Ce réseau regroupe des institutions de l'Amérique du Nord, de l'Amérique centrale et de l'Amérique du Sud, y compris des Antilles. Il s'agit d'une première étape en vue d'établir un partenariat dans l'hémisphère occidental qui, je le souhaite, prendra l'initiative de la consolidation de la démocratie dans notre région du monde.

En effet, je soutiens que les réseaux d'institutions des droits de la personne ont non seulement montré leur efficacité à promouvoir et à protéger les droits civils et politiques, mais elles sont aussi devenues un élément crucial en vue de préserver l'indivisibilité de tous les droits de la personne, y compris les droits économiques, sociaux et culturels.

Pour conclure, Monsieur le président, j'aimerais préciser que les gouvernements, les institutions nationales des droits de la personne et la société civile ont un rôle dynamique à jouer dans la protection des droits de la personne et la lutte contre l'intolérance. À cette période particulièrement sombre de l'humanité, nous avons trouvé fort encourageant le solide appui des chefs religieux, des politiciens, des artistes et des musiciens. Et de façon plus importante encore, les citoyens ordinaires ont reconnu qu'ils doivent faire quelque chose pour contrer l'intolérance.

Il s'agit là, à mon avis, de conditions qui mettent en valeur toute l'importance des institutions nationales des droits de la personne : ces institutions constituent un élément essentiel de toute stratégie de prévention. Il ne suffit pas, en effet, de réagir aux situations qui se présentent. Notre but ultime consiste non seulement à offrir des voies de recours, mais surtout à empêcher la violation des droits de la personne.

## STATEMENT BY THE CHAIRMAN OF THE NATIONAL COMMISSION ON HUMAN RIGHTS AND FREEDOMS OF CAMEROON

58th Session of the United Nations Assembly

Honourable Chairperson,

On behalf of my delegation from the National Commission on Human Rights and Freedoms of Cameroon, I thank you for the opportunity given us to address this august Assembly.

Since the 57th session of the UN Commission on Human Rights there have been many developments in the area of human rights in Cameroon.

Mr. Chairperson,
Efforts made in Cameroon to combat human rights violations have resulted in some positive changes in the country. However, cases of human rights violations still persist at varied degrees of intensity.

Child kidnapping has become an attractive profit-making activity for some unscrupulous businessmen. The victims include teenage girls. Drastic measures are being taken against the culprits.

Torture continues to be a human rights violation in spite of Governments' efforts to stop it.

Detention conditions are not conducive to bestowing dignifying treatment on people under arrest. Arbitrary arrests still persist.

The Commission often makes unannounced inspection visits to detention centres and prisons and makes reports which are sent with proposals to the pertinent authorities who are working with us to improve the situation.

The accusation made by NGOs at the recent World Conference Against Racism that Cameroon Government was involved in trafficking in persons and enslavement as human rights violation was taken up seriously and investigated. The press release of September 6, 2001 in Durban by the Chairman of the Cameroon Human Rights Commission avowed not to be aware of any such cases, nor had his Commission recorded any complaint of that nature still stands.

Corruption is rampant and its magnitude has made it become a real challenge facing Cameroon, which quite justifiably perceives the urgency and necessity to combat it. The Government has consequently set up an ad hoc committee for the fight against corruption presided over by the Prime Minister and a corruption observatory. The Commission is represented in both institutions.

The Commission calls on victims of human rights violations and or witnesses to report to it. This has proved to be very useful as it has enabled us to take appropriate measures in handling many human rights cases.

One of the most successful developments in the Commission's work is a regular weekly slot on national radio to sensitize and educate the population on their human rights.

The Commission works with a variety of entities whose missions are to promote and protect human rights. Such entities include associations, NGOs, government ministries, foreign bilateral and multilateral donors based in Cameroon.

The Commission has also participated in a number of human rights events outside Cameroon.

In spite of efforts made to curb human rights problems, such problems remain huge and persistent. The Government of Cameroon has in the past two years increased budgetary allocation to the Commission. A few foreign donors have also provided the Commission with some support. We are grateful for such initiatives.

However, the means given to the Commission and to other human rights actors remain remarkably restricted. Owing to such limitations, the Commission could only establish one branch outside Yaounde. Our strategic plan and other texts envisaged the establishment of several branches. To assure the stability of our resources negotiations are underway for the Commission's budget to be enacted by Parliament.

The African Sub-Regional Centre for Human Rights and Democracy which was recently inaugurated with headquarters in Yaounde, Cameroon has contributed immensely in strengthening the capacity of our national institution for which we are very grateful. We would like to express our gratitude and congratulations to the High Commissioner for Human Rights and her office for the tremendous efforts she has made to promote and strengthen National Institutions world-wide. It is our plea that adequate means be put at her disposal to enable her do more for NIs.

Honourable Chairperson, thank you for the opportunity given us to make this statement.

## Comentarios de la Defensoría del Pueblo al Informe Anual 2001 de la Alta Comisionada para los Derechos Humanos de las Naciones Unidas

**Defensor del Pueblo de Colombia, Eduardo Cifuentes Muñoz. Ginebra, 2002.**

La Defensoría del Pueblo agradece a la Alta Comisionada de las Naciones Unidas para los Derechos Humanos el Informe Anual por ella elaborado, el cual responde al mandato de su Oficina en Colombia.

Esta entidad comparte la preocupación puesta de manifiesto en el Informe acerca de la grave situación de los derechos humanos y del Derecho Internacional Humanitario en el país. Los hechos descritos en el documento evidencian la importancia de la presencia de la Oficina en Colombia, como un mecanismo de colaboración efectiva de la Comunidad Internacional para la superación de esta aguda problemática.

El estado de cosas descrito en el Informe responde en buena medida a condiciones que se han estructurado a lo largo de muchos años. Si bien es posible advertir que el Estado colombiano ha emprendido una serie de acciones encaminadas a poner fin a esta situación, lamentablemente, las labores adelantadas no son suficientes ni han arrojado aún los resultados esperados.

De manera especial, la Defensoría quiere destacar los esfuerzos realizados por el Estado, en tres campos, a saber:

1- Las operaciones emprendidas por el Gobierno nacional en su lucha contra el fenómeno del paramilitarismo. Empero, es claro que los resultados siguen siendo insuficientes, tal como lo demuestra su expansión territorial.

2- La reforma adelantada por la Fiscalía General de la Nación para fortalecer y ampliar el radio de acción de la Unidad de Derechos Humanos y de Derecho

Internacional Humanitario. Mediante esta reforma, se crearon once unidades de apoyo para esta dependencia. Sin lugar a dudas, esta medida contribuirá a agilizar las investigaciones en este campo.

3- La creación, por parte del INPEC, de un alto número de cupos carcelarios, con la consecuente disminución del hacinamiento carcelario. En efecto, entre el año 1998 y diciembre de 2001, la capacidad de los establecimientos carcelarios aumentó en 9.852 cupos. Esta cifra se incrementará con la entrega de las construcciones que adelanta actualmente el INPEC.

La Defensoría desea manifestar que comparte las observaciones presentadas en el escrito, relacionadas con el funcionamiento de la Defensoría Pública y el Sistema de Alertas Tempranas. Respecto a la primera, es importante aclarar que la propia Defensoría del Pueblo, con el objeto de corregir los defectos estructurales que se presentan en la Dirección Nacional de Defensoría Pública, solicitó el concurso de la Oficina en Colombia de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos, a fin de elaborar un diagnóstico acerca de este servicio. El respectivo estudio ya fue presentado y fue integralmente aceptado por la Defensoría del Pueblo. Actualmente, la Defensoría trabaja por la superación de las dificultades percibidas en este servicio. Para ello cuenta con la colaboración de la misma Oficina en Colombia de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos.

En cuanto al Sistema de Alertas Tempranas, debe precisarse que la Defensoría se encuentra actualmente en un proceso de rediseño, tanto de las políticas como de los mecanismos para el desarrollo y ejecución de las mismas, con miras a lograr mejores resultados y la participación comprometida de todas las instituciones del Estado involucradas en el Sistema. Lo anterior, por cuanto un mecanismo adecuado de prevención de graves situaciones vulneratorias de los derechos humanos debe contar necesariamente con la participación de todas las entidades nacionales e internacionales.

Es necesario, por otra parte, destacar algunas de las actividades adelantadas el año pasado por la Defensoría del Pueblo, que tienen relación con aspectos de fundamental importancia para la realización de los Derechos Humanos en Colombia, en medio de las circunstancias de conflicto armado e inequidad que nos afectan:

**1. Corte Penal Internacional**

En diciembre del año pasado, el Congreso de la República aprobó un acto legislativo que elimina las barreras constitucionales para la incorporación en el ordenamiento jurídico del Estatuto de Roma, que creó la Corte Penal Internacional.

Esta reforma, que fue impulsada activamente por la Defensoría del Pueblo, era necesaria para hacer compatibles las disposiciones de nuestra Constitución con las normas procedimentales y sancionatorias que regulan el funcionamiento de la Corte.

Con la reforma, el artículo 93 de nuestra Constitución quedó redactado así:

"El Estado Colombiano puede reconocer la jurisdicción de la Corte Penal Internacional en los términos previstos en el Estatuto de Roma adoptado el 17 de julio de 1998 por la Conferencia de Plenipotenciarios de las Naciones Unidas y, consecuentemente, ratificar este tratado de conformidad con el procedimiento establecido en esta Constitución.

La admisión de un tratamiento diferente en materias sustanciales por parte del Estatuto de Roma con respecto a las garantías contenidas en la Constitución tendrá efectos exclusivamente dentro del ámbito de la materia regulada en él".

Actualmente, solo falta la expedición de una ley aprobatoria del Tratado por parte del Congreso, con su consiguiente sanción presidencial, para que Colombia sea uno de los países miembros de la Corte, que ya obtuvo la ratificación de 60 países y entrará a operar en junio próximo.

**2. Fumigaciones**

En Colombia, los químicos para la erradicación aérea de cultivos ilícitos han venido siendo utilizados desde 1984, cuando fueron autorizados para combatir la marihuana. Desde entonces, se han empleado sustancias como el Glifosato (autorizado en 1992 y1994), el Imazaphir y el Tebuthiuron. Actualmente se emplea el Round Up (mezcla de Glifosato y POEA) al que se le adiciona Cosmo Flux 411.

A juicio de la Defensoría del Pueblo, la forma como se ha puesto en marcha la estrategia de erradicación de cultivos no ha sido efectiva. Los cultivos de coca aumentaron, según cifras de la Dirección Nacional de Estupefacientes, de 44.500 hectáreas en 1994, a 163.000 en 2000, hecho que ha implicado la extensión de las zonas destinadas a la siembra y por ende, mayor deforestación de áreas de especial relevancia ambiental y cultural.

La Defensoría del Pueblo ha solicitado reiteradamente al Gobierno que suspenda la estrategia de erradicación mientras esta se revisa, pues son múltiples las denuncias sobre los daños que producen las fumigaciones para la salud humana.

Antes de continuar adelante con esta estrategia debe contarse con un Plan de Vigilancia Epidemiológica, que permita determinar los efectos de las fumigaciones; contratarse la auditoría técnica ordenada por el Ministerio del Medio Ambiente para evaluar los impactos en la flora, la fauna, los suelos y el agua; implementarse un Plan de Manejo Ambiental, ajustado a las condiciones impuestas por la autoridad ambiental en 1996, y ponerse en marcha programas de desarrollo alternativo que garanticen condiciones de vida digna a las poblaciones que se

vean obligadas a la siembra de estos cultivos para garantizar su subsistencia y la de sus familias.

**3. Ley de Defensa y Seguridad**

Acerca de la Ley de Defensa y Seguridad Nacional es importante señalar que, desde un principio, durante el trámite del proyecto en el Congreso de la República, la Defensoría del Pueblo se opuso a ella. En sus intervenciones ante el Congreso, la Defensoría manifestó reiteradamente que, si bien compartía la necesidad de fortalecer la Fuerza Pública con el objeto de garantizar la seguridad ciudadana, el proyecto representaba serios peligros para el Estado de Derecho y para los derechos fundamentales de los ciudadanos. Ello por cuanto el proyecto concentraba amplios poderes en el Presidente de la República y en las Fuerzas Militares, y porque permitía la imposición de obligaciones y deberes a los ciudadanos para actuar en el marco del conflicto armado que padece Colombia.

Aun cuando algunas observaciones puntuales de la Defensoría del Pueblo fueron aceptadas en el Congreso, la ley conservó intacto el espíritu del proyecto inicial. En vista de ello, la Defensoría decidió demandar un amplio número de sus artículos ante la Corte Constitucional, el intérprete auténtico de la Constitución en Colombia. En fallo reciente, cuyo texto aún no se conoce, la Corte Constitucional concedió la razón a la Defensoría del Pueblo y a los otros tres demandantes de la ley, y determinó la inconstitucionalidad total de la Ley de Defensa y Seguridad Nacional. De acuerdo con el comunicado de prensa emitido por la Corte, en la sentencia se precisará que la Constitución sí permite – e incluso hace imperativo - que se adopte una ley para la defensa y seguridad. Sin embargo, la ley que había sido dictada contradice abiertamente la Constitución, por cuanto:

- vulnera el principio de la separación de los poderes y pone en peligro la primacía del poder civil sobre el militar

- desconoce la autonomía de los ciudadanos y permite que les sean impuestas obligaciones que los involucrarían dentro del conflicto armado, con lo cual se vulnera el principio del pluralismo y las normas del derecho internacional humanitario
- concede facultades a las autoridades que superan incluso las atribuciones propias de los regímenes de estados de excepción.

## 4. PROSEDHER

El Programa de Seguimiento y Evaluación de las Políticas Públicas en Derechos Humanos de la Defensoría del Pueblo es una importante línea de visión dentro del redireccionamiento estratégico que recientemente ha emprendido la Institución. Es por ello que PROSEDHER tiene como propósito la construcción de un sistema institucional que permita incidir sobre las políticas públicas para mejorar el nivel de realización de los Derechos Humanos.

Para cumplir con la finalidad de promover la efectividad de los derechos humanos desde el diseño, formulación e implementación de las políticas, el Programa se propone cumplir con los siguientes objetivos específicos:

- Desarrollar un sistema de información aplicado para el seguimiento y evaluación de las políticas públicas.
- Generar procesos coordinados que permitan en la institución la acumulación de conocimiento especializado sobre políticas públicas en derechos humanos
- Efectuar el seguimiento y evaluación a las políticas públicas
- Diseñar y aplicar estrategias para incrementar la eficacia y el impacto de las recomendaciones de la Defensoría del Pueblo.

Los problemas intrínsecos de la implementación equivocada de un modelo económico aperturista, los programas de ajuste fiscal en el contexto de una recesión económica y la acentuación del conflicto armado son los factores generales críticos que en los últimos años han generado en el país un ambiente adverso no sólo al crecimiento económico, sino a la realización progresiva de los derechos económicos, sociales y culturales.

En efecto, Colombia experimenta en la actualidad un tasa de desempleo del 18% que, comparada con los demás países de América Latina, es preocupantemente elevada (estamos hablando de aproximadamente 3.500.000 desempleados). Esta situación se encuentra íntimamente asociada con una ascendente elevación de los índices de pobreza y miseria, aunada a una ampliación de la brecha de desigualdad en la distribución del ingreso. Según fuentes del Departamento Nacional de Planeación, el número de pobres que en el año 2000 se encuentra por debajo de la línea de pobreza es de 24 millones de colombianos, lo que representa más del 50% de la población. Asimismo, mientras en el año de 1990 la diferencia de ingresos del decil más pobre de la población respecto al decil más rico era de 30 veces mayor, en el 2000 esa diferencia se amplia a 40 veces.

De otra parte, desde el año de 1997 el Índice de Desarrollo Humano en el país no muestra señales de mejoría y los diferentes programas de política social, que pueden incidir, por ejemplo, sobre el derecho a la salud y a la educación, y disminuir las diferencias entre la zona urbana y rural, han dejado de ser una prioridad en la inversión pública. En los últimos años es notable el efecto desplazamiento de la inversión pública social hacia la seguridad social y defensa. Todo ello no deja de ser altamente problemático si se tiene en cuenta que la cobertura del aseguramiento a los servicios de salud de la población pobre se ha estancado en un 40% y las tasas de asistencia escolar de los hogares más pobres se han visto reducidas por la crisis económica, sobre todo en la población entre los 12 y 17 años.

RÉPUBLIQUE FRANÇAISE

*Commission Nationale Consultative*
*des Droits de l'Homme*

# INTERVENTION DE M. ALAIN BACQUET, PRÉSIDENT DE LA COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME DE LA REPUBLIQUE FRANÇAISE DEVANT LA 58ÈME SESSION DE LA COMMISSION DES DROITS DE L'HOMME

**Genève - Avril 2002**

Monsieur le Président,

C'est un grand honneur pour moi de prendre la parole au nom de la Commission nationale consultative des droits de l'homme de la République française, devant la Commission des droits de l'homme, et je vous en remercie, Monsieur le Président ainsi que Mme Mary ROBINSON, le Haut-Commissaire aux droits de l'homme des Nations Unies. Je tiens tout particulièrement en cette occasion à saluer l'indépendance d'esprit, l'élégance morale, la force de conviction et le courage avec lesquels Mme ROBINSON a mené à bien sa mission au service des droits de l'homme partout dans le monde. Elle a apporté un soutien sans faille aux institutions nationales de protection et de promotion des droits de l'homme qui lui doivent à cet égard une très vive reconnaissance.

Comme les années précédentes, la place où la Commission française s'exprime - au milieu des autres institutions nationales indépendantes accréditées conformément aux principes de Paris - symbolise l'originalité des institutions nationales, au carrefour des pouvoirs publics et des forces vives de la société civile. Le mandat spécifique des institutions nationales, et notamment leur fonction essentielle de conseil, implique indépendance, pluralisme et transparence. Indépendance et pluralisme vont de pair : la qualité et la diversité de nos membres venant de tous les horizons de la société sont les meilleurs garants de notre indépendance individuelle et de notre autorité collective, dans la recherche permanente du consensus. Cette indépendance s'enracine dans les textes, mais elle se traduit surtout dans des prises de position: le rapport annuel de la Commission française que j'ai remis au gouvernement le 21 mars dernier, conformément aux dispositions de la loi, recense toutes les activités de notre Commission qui a rendu 18 avis au cours de l'année 2001. Ces avis sont

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immédiatement rendus publics, à travers la presse, tandis que le nouveau site informatique de la Commission permet désormais une complète transparence, en temps réel, pour l'ensemble des citoyens.

De la même manière, la Commission française est prête à mobiliser les moyens financiers et techniques nécessaires pour aider les autres institutions nationales francophones à mettre en place leur propre site informatique et contribuer ainsi avec l'ensemble des institutions nationales au développement d'un vaste réseau des institutions nationales. La création d'une association francophone des commissions nationales des droits de l'homme, en gestation dans le cadre de l'Organisation internationale de la francophonie, devrait elle aussi resserrer les liens déjà existants entre ces institutions, contribuant ainsi à une étroite coopération dans la mise en oeuvre de la Déclaration de Bamako du 3 novembre 2000 sur *"les pratiques de la démocratie, des droits et des libertés dans l'espace francophone*".

Monsieur le Président,

La lutte contre la racisme, l'antisémitisme et la xénophobie figure au premier rang des préoccupations de la Commission française. Une grande partie du rapport annuel est consacrée à cette mission. Notre Commission a salué l'adoption par le Parlement français d'une loi reconnaissant la traite et l'esclavage en tant que crimes contre l'humanité et a fait de ce thème le sujet du concours sur les droits de l'homme - le concours René CASSIN - organisé chaque année dans les écoles, marquant ainsi toute l'importance pédagogique pour les jeunes générations de cet acte hautement symbolique de la République française, fidèle au message d'émancipation de 1848.

Elle a contribué activement à la préparation de la Conférence mondiale de Durban, dans le cadre national, européen et international. Elle a notamment participé à la réunion des Institutions nationales organisée les 27 et 28 août à Johannesburg avec grand succès par nos collègues et amis de la Commission sud-africaine des droits de l'homme. Elle s'est félicitée de l'adoption unanime d'une substantielle "déclaration commune" des institutions nationales, à la veille de l'ouverture de la Conférence mondiale de Durban. Dans le même esprit, elle salue le travail important de suivi fait à l'occasion des récentes rencontres internationales des institutions nationales organisées il y a quelque jours, à Copenhague et à Lund, dont le

président du Comité international de coordination des institutions nationales, M. Driss DAHAK, président du Conseil consultatif des droits de l'homme du Royaume du Maroc, vient de rendre compte en notre nom à tous.

Le combat contre le racisme, l'antisémitisme et la xénophobie n'est, hélas, jamais achevé. La Commission française est particulièrement concernée par la montée des actes de violence - y compris sur notre propre sol - qui appelle la plus ferme condamnation et la plus grande vigilance. La mobilisation contre toutes les formes de racisme implique une action renforcée contre les discriminations. La Commission française a soutenu les efforts entrepris récemment en ce sens dans le cadre du droit communautaire comme dans le cadre national, avec la loi du 16 novembre 2001 qui renforce les droits des victimes. Associée à la réflexion collective sur l'avenir de l'Europe, la Commission a entendu souligner dans un avis du 23 novembre 2001 qu'il importait "*de privilégier l'objectif de l'intégration sociale, fondé sur l'égalité des droits et l'égalité des chances. Le principe de non-discrimination doit rester à la base des politiques européennes, conformément à la jurisprudence communautaire*".

A l'évidence, la recrudescence récente des actes de violence traduit une détérioration du climat international, notamment au Proche-Orient. La Commission française a rappelé, dans un avis sur la situation des droits de l'homme et du droit humanitaire en Israël et dans les territoires palestiniens, adopté le 6 juillet 2001, que "*le plein respect des droits de l'homme pour tous les peuples et tous les individus constitue la base fondamentale et durable dans la région*", et a souhaité une pleine coopération avec les instances des Nations Unies compétentes en matière de droits de l'homme, notamment pour l'application des résolutions 2001/2 et 2001/8 de la Commission des droits de l'homme. Elle recommandait également de "*poursuivre les efforts entrepris pour la mise en place d'observateurs indépendants et impartiaux chargés de veiller au respect des droits de l'homme par toutes les parties*".

Monsieur le Président,

La Commission française appelle de ses voeux un renforcement du cadre juridique de la vie internationale. Depuis le début des années quatre-vingt-dix, elle s'est mobilisée pour la lutte contre l'impunité et la création d'une Cour pénale internationale. La France fait partie des soixante premiers Etats à avoir ratifié le Statut de Rome et a adopté une récente législation sur

la coopération avec la Cour pénale. La France vient également d'adhérer au Protocole I aux Conventions de Genève de 1949 relatif aux victimes des conflits armés internationaux. Dans les deux cas, la Commission, à travers ses avis techniques, a joué un rôle non négligeable de proposition et de critique auprès des pouvoirs publics. Elle souhaite en particulier que les autorités françaises formulent, dès que possible, la déclaration prévue à l'article 90 du Protocole I sur la commission internationale d'établissement des faits, tout comme elles devraient accepter la pleine compétence de la Cour pénale internationale en matière de crimes de guerre.

Le terrorisme constitue un grave défi pour la communauté internationale. Il constitue la négation même des droits de l'homme, la violation du droit à la vie et à la sûreté. Aucune cause ne saurait l'excuser ou le justifier. Le devoir de tous Etats est de lutter et de coopérer contre ce fléau qui s'attaque aveuglément à des hommes et des femmes de toutes origines, de toutes croyances, de toutes conditions. Le devoir des Etats est tout autant de s'efforcer de résoudre, partout dans le monde - conformément au droit international – les crises qui constituent un terreau propice à l'escalade de la haine, au fanatisme et au fatalisme, à la politique du pire qui est la pire des politiques.

Mais ce serait tomber dans le piège qui est tendu aux démocraties de sacrifier les principes de l'Etat de droit et de la justice à cette indispensable lutte contre le terrorisme. La Commission française a été amenée à se prononcer dans un avis du 29 octobre 2001, sur les mesures législatives prises par le gouvernement français pour renforcer la "*sécurité quotidienne*", en rappelant que "*de telles mesures ne doivent apporter à l'exercice des libertés publiques et des droits fondamentaux que des restrictions dûment justifiées par les nécessités de la lutte contre le terrorisme et strictement proportionnées à ces nécessités*".

De manière plus générale, c'est dans le cadre des droits de l'homme et du droit international humanitaire que les Etats doivent faire face aux situations d'exception, ainsi que le prévoit d'ailleurs le Pacte international relatif aux droits civils et politiques. Certains principes sont indérogeables, comme la prohibition de la torture et des traitements cruels, inhumains ou dégradants, comme l'accès à un "*tribunal indépendant*", condition même de l'exercice effectif des garanties judiciaires, du droit au droit. De même le strict respect des Conventions de Genève s'impose dans les situations de conflits armés, et notamment la 3° Convention sur les prisonniers de guerre, quelle que soit la qualification arbitraire donnée à ces derniers. Ce

serait une défaite morale pour les démocraties si elles sacrifiaient leurs valeurs et leurs principes à l'indispensable lutte contre le terrorisme.

Il serait également tragique que la mobilisation contre le terrorisme fasse fermer les yeux sur les violations massives et systématiques des droits de l'homme qui continuent d'être commises de part le monde, ou bien rende sourd aux appels des défenseurs des droits de l'homme, notamment des ONG indépendantes et des medias libres, dont le rôle est plus que jamais irremplaçable. Les impératifs permanents que constituent la lutte contre l'extrême pauvreté et la mise en oeuvre effective du droit au développement doivent demeurer des priorités.

Monsieur le président, permettez-moi pour conclure, de rappeler avec force, au nom de la Commission nationale consultative des droits de l'homme, que le plein respect des droits de l'homme pour tous constitue, aujourd'hui comme hier, "*le fondement de la liberté, de la paix et de la justice dans le monde*". Merci, Monsieur le Président.

# STATEMENT OF
# JUSTICE J.S.VERMA
# CHAIRPERSON
# NATIONAL HUMAN RIGHTS COMMISSION
# OF INDIA

## TO THE 58th SESSION OF THE
## COMMISSION ON HUMAN RIGHTS

**UNDER AGENDA ITEM 18(b)**
**(NATIONAL INSTITUTIONS & REGIONAL ARRANGEMENTS)**

**GENEVA 18 APRIL 2002**

Mr. Chairman,

The National Human Rights Commission of India would like to express its profound regret that, in this 58th Session of the UN Commission on Human Rights, extending over a period of some 6 weeks, the Commission has considered it appropriate to allocate barely one hour to hear the views and voices of National Institutions. We understand the difficulties caused by sudden budgetary constraints but are unable to appreciate the conclusion that has been reached.

The decision reverses the effort, extending over the past 8 years, to encourage National Institutions to participate in their own right and with a distinct status of their own, in the work of this Commission.

The National Human Rights Commission of India is thus unable to accept the offer to take the floor in such circumstances. It has chosen instead to circulate in full the text of the Statement that it was to have made orally. It would like to make clear that National Institutions have a unique and individual voice. The work of each is country-specific. It is therefore unacceptable to the Indian Commission that either the International Coordinating Committee of National Institutions (which it itself chaired for some 5 years), or any regional grouping of National Institutions can or should speak for it. This position is also in keeping with the principle that National Institutions must function with complete independence, if they are to maintain their integrity. In this connection, the Indian Commission appreciates the solidarity of the other National Institutions of the Asia Pacific Region, all of whom are taking a similar stand. While none of us are

taking the floor individually, we have requested the Fijian National Institution to say so on behalf of all of us from the floor of the house while we circulate our more detailed texts individually.

The decision of this Session to restrict the participation of National Institutions is particularly regrettable because the cooperation that has developed between the High Commissioner, on the one hand, and National Institutions, on the other, has been one of the least heralded but most successful endeavours of the United Nations in recent years to promote and protect human rights around the world. It has brought the great body of Human Rights Law, developed under the aegis of the World Organization, to the level where it most counts – the ground level. The greater is the pity that this Commission has not found the time to hear for itself what is happening at that level, from those who are among the best qualified to report on that effort.

The decision is doubly unfortunate, following as it does the World Conference in Durban, where some fifty National Institutions participated in the deliberations and made, in the assessment of the High Commissioner, one of the most constructive and coherent contributions to that Conference.

The Statement of National Institutions then adopted was, in the view of all, considered to be forward-looking and practical. And most of all, instead of lecturing others on what they should do, it asked National Institutions themselves to do clearly defined things to end the varieties of discrimination identified at the World Conference.

In continuation of the Durban Conference, National Institutions met last week in Copenhagen and Lund, for their Sixth International Conference to follow-up expressly on the commitments they had made in Durban. The gathering provided, perhaps, the most systematic effort at the global level since Durban, to ensure that the Declaration and Programme of Action then adopted would not be forgotten in time and controversy, but remembered for its call to continuing action. Each of the National Institutions present sought to indicate what it had done, or planned to do, in concrete terms, to promote the agenda of Durban and to monitor the response of the Governments of their respective countries.

Mr. Chairman,

Past proceedings of this Commission and of the Durban Conference have shown that National Institutions can be among the most powerful and sustained voices for Human Rights if they are recognized as players in their own right, and given their own space, both literally and metaphorically, to fulfill their purpose. Sadly, it is that right and that space that has been denied to them in the present Session of this Commission, to the greater loss of the Commission itself.

Just as National Institutions need the protection of their right and the space to speak in this Commission, so it is within their own countries and jurisdictions. There too, National Institutions need the space that the constitutional structures of democracy provide, if they are to function with real effectiveness. They do not flourish adequately outside democratic polities, however heroic their efforts may be. This is because National

Institutions, to be effective, require to be constantly vigilant and outspoken in the defence of Human Rights, a responsibility that – not infrequently – compels them to draw attention to the performance of the State and its agents that result in the violation of Human Rights – whether through acts of commission, omission, abetment, or negligence. It requires the openness and freedom of a democratic polity to ensure that such criticism, which is essential to the well-being of society, is received with respect, even if not always with full agreement, and that the dialogue for the better protection of rights is sustained as an objective of all elements of the State and society. That, at least, has been the experience of a number of National Institutions, including that of India. The defence of Human Rights thus requires the defence of a democracy that is inclusive, and all of its institutions.

This makes an independent Judiciary the closest ally of National Institutions, for their roles and perspectives can and should be complementary. The Statute of the Indian Commission expressly authorizes it

> "to intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court."

This has greatly strengthened the hands of our Commission, not least since its Chairperson – by statutory requirement – must be a former Chief Justice of the Supreme Court of India (and at present three of the four serving Members happen to have been Justices of the Supreme Court).

The capacity to differ with civility and mutual respect is the hallmark of a democratic society. This is witnessed in a number of ways in the work of the National Human Rights Commission of India – even in respect of some of the most sensitive political and societal issues facing the country.

While the entire world has, with good reason, been compelled to face the challenge of International Terrorism since 11 September 2001, India has fought this battle, often alone, since the 1980s. And over this period it has continuously had to face the question of whether and how this battle – that must be fought and won – can be reconciled with the preservation of Human Rights norms. For all of the difficulties of the choices to be made, the National Human Rights Commission of India opposed the draft Prevention of Terrorism Bill, 2000 that was under consideration in our country. Further, it opposed the Prevention of Terrorism Ordinance, 2001 and, in an Opinion of 19 November 2001 in the charged political climate after the terrorist attacks of 11 September 2001, observed:

> "Undoubtedly, national security is of paramount importance. Without protecting the safety and security of the nation, individual rights cannot be protected. However, the worth of the nation is the worth of the individuals constituting it. Article 21 (of the Constitution of India) which guarantees a life with dignity is non-derogable. Both national integrity as well as individual dignity are core values in the Constitution, and are compatible and not inconsistent. The need is to balance the two. Any law for combating terrorism should be

> consistent with the Constitution, the relevant international instruments and treaties and respect the principles of necessity and proportionality."

This remains the view of the Commission. The Prevention of Terrorism Ordinance has, since then, been enacted into a Law on 26 March 2002, following a joint session of Parliament. The Commission respects and honours the Constitutional process leading to the adoption of this Act. It retains, however, its responsibility under its Statute to ensure that the Act is not implemented in a manner that is violative of the Constitution and treaty obligations of our country.

The 'democratic space' within which the Indian Commission has functioned was vividly illustrated in another matter of considerable national debate in the past months. This related to the stance that the country should take at the World Conference in Durban in relation to Dalits, a matter of great societal and political significance. Our Commission stated that it was not the 'nomenclature' of the form of discrimination that must engage our attention, but the fact of its persistence that must cause us concern and compel us to act. The Constitution of India, in Article 15, expressly prohibits discrimination on the grounds of both 'race' and 'caste' and that Constitutional guarantee has to be vigorously implemented. The Commission holds the view that the instruments of governance in our country, and the energetic and committed non-governmental sector of society can unitedly triumph over the historical injustices that have hurt the weakest sections of our country, particularly Dalits and Adivasis (Scheduled

Tribes). In our view, this is, above all, a national responsibility and a moral imperative that can and must be honoured.

In recent weeks, our Commission has been much preoccupied with events that have occurred in the State of Gujarat beginning with the Godhra tragedy and continuing with the violence that ensued subsequently, in respect of which both the President and Prime Minister of India have expressed their deepest anguish. A team of the Commission visited Gujarat between 19-22 March 2002 and, in a series of Proceedings, the Commission has continued to monitor the situation closely. On 1 April 2002, the Commission made public its Preliminary Comments and Recommendations on the situation holding, inter alia, that

> ".....it is the primary and inescapable responsibility of the State to protect the right to life, liberty, equality and dignity of all of those who constitute it. It is also the responsibility of the State to ensure that such rights are not violated either through overt acts, or through abetment or negligence."

The Commission added that

> ".....it is a clear and emerging principle of human rights jurisprudence that the State is responsible not only for the acts of its own agents, but also for the acts of non-State players acting within its jurisdiction. The State is,

in addition, responsible for any inaction that may cause or facilitate the violation of human rights."

A number of precise recommendations have been made by Commission to bring to justice those responsible for the violations of the rights that have occurred and to ameliorate the suffering of those who are the victims. The Proceedings of the Commission have been sent to the Central and State Governments for their response, after receiving which the Commission will reflect on what further needs to be said and done. The full text of the Opinion may be read on our web-site.

Mr. Chairman,

This is not the time or the occasion to recall in full the other concerns and activities of the Commission. They have covered the range of Human Rights. We have, in particular, been greatly involved with issues of public health, food and education, the rights of women and children, minorities and the weakest sections of society, recognizing the linkage between Human Rights and Human Development, which share a common vision and a common purpose.

Mr. Chairman,

In the midst of the clamour that often attends the consideration of Human Rights issues, not least in this Commission of the United Nations, the National Human Rights Commission of India has often felt the need to reflect on Mahatma Gandhi's sage words:

"The human voice can never reach the distance that is covered by the still voice of conscience."

In the din and intolerance that too often resonates in the social and political scene today, the "still voice of conscience" is the voice of Human Rights, and it is often best expressed in the words and actions of National Institutions. It is the voice that all must endeavour to hear above the strife, including, with all due respect, the Members who comprise this Commission.

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# *STATEMENT OF THE ISLAMIC HUMAN RIGHTS COMMISSION OF I. R. IRAN*

## *TO: THE 58TH SESSION OF THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS*

### *Item 18(b): National Institutions for the Protection and Promotion of Human Rights*

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**IN THE NAME OF GOD**

Ladies, Gentlemen and Mr./Ms. Chairperson,

First I should like to express my deepest gratitude for the opportunity granted to our national institution to be here. It was exactly 5 years ago today that the Secretary General of the Islamic Human Rights Commission participated and delivered his statement at the 53rd UNHRC's Session, in fact the first year national institutions had been granted access and the IHRC had newly emerged and been welcomed by the UNHRC under Resolution E/CN.4/1996/L.45. Over the past 5 years, however, new developments at national, regional and international levels have immensely impacted the process of the activities of national institutions in general and that of the independent national institution of Iran in particular.

At international level, the convening of international human rights conferences on women's rights, elimination of racial discrimination and other forms of intolerance, dialogue among civilizations and cultures, etc. and the ratification of tens of new documents aimed at forging more suitable safeguard controls were aimed at better protecting the international community. Each of these efforts was launched aiming to salvage human beings from 'uncharted waters', that led him to despair and bitterness in the past, and put him on a track more conducive to maturation and evolution leading to more conscientious observance of human rights, peace and friendship and thus on that tone have him launch the third millennium with compassion and unity. The high hope was that the resulting achievements will work to further disrupt and restrict the breathing space for the violators of human rights irrespective of their social and political standing and bolster the scope and thrust of the activities of the human rights activists. Unfortunately, the Sept. 11 terrorist attacks that culminated in the slaughtering of thousands of innocent people, derailed the steady pace of the 'bandwagon of hope' and almost brought it to a standstill. Consequently, fear, intimidation, hostility and lack of security started to haunt the world plunging international community onto the verge of despair and requiring a gigantic test of mettle for that matter at the beginning of the third millennium. One avenue for the successful realization of this test was to seize the opportunity to channel active efforts to create world unity in order to forge targeted objectives against terrorism and consolidate peace and justice worldwide. Another avenue was to have efforts channeled towards further expanding hostility among cultures and clash of civilizations and

whipping up militarism and a return to the predominance of weapons and might and by so doing deal a massive blow to human rights.

Over the past few months in the aftermath of Sept. 11 attacks, we have been witnessing the images of both practices on the international scene. The positive attempt has pushed for like-minded international ties to forge a coalition of peace and friendship with targeted objectives to combat terrorism in order to uproot it. Another image emerging in the wake of Sept. 11 has been human rights infringement at national and international levels by some countries that have unfortunately resorted to displaying their mucho-minded and arrogant mentality. Under the shaky and indecisive world situation, in certain parts of the world such as the Middle East we have been witnessing the worst possible atrocious infringement of human rights in the occupied Palestinian lands in recent months without any effective support for the victims by the world community. Or another case in point is the ill-treatment of Afghani prisoners of war, which also dealt a blow to human rights and prompted outcry from the human rights activists the world over.

At regional level, apart from the efforts launched on different parts of the world, in our part of the world that is Asia-Pacific region, despite cultural, political, and economic diversity, we have scored gains in our regional Asia-Pacific cooperation meetings on human rights in an inclusive, step by step and building blocks approach bolstered by the support of the UN Human Rights Commissioner and within the framework of the UNHRC resolutions and the Tehran framework for regional technical cooperation. The tenth regional arrangements meeting for the promotion and protection of human rights was recently convened in Beirut in March 2002 and took another stride in the promotion of human rights in this vast and historical region.
The achievements, partly the product of the ceaseless efforts of the human rights activists, positively impacted all national institutions including the IHRC.

At national level, over the past 5 years a good number of important developments have impacted human rights issues in Iran. The Iranian government and people have gone through various transformations with huge upturns and downturns. In this rough ride, the IHRC still in its infancy and fearful of its fragile stature, had to desperately throw its full weight behind challenging objectives pushing to survive against the odds and trying to positively impact a complicated, subtle and religious society. Thus the IHRC pushed its shaky existence through thick and thin drawing its strength from the perseverance of all human rights activists

and fortunately survived. Today IHRC as an independent institution appears to have gone a long way cutting a commanding and respectable standing in the context of the Iranian society gradually acting as a magnate for the distressful and the helpless.

Ladies, gentlemen and Mr./Ms. Chairman,

Over the past five years, friends and colleagues from Asia-Pacific region have repeatedly questioned the Commission's non-participation in the UNHRC's Sessions. Our response has been that we have to first utilize our limited resources to boost and consolidate our position within the country, to gain the trust of our people and alleviate to the extent possible the violations of human rights in the country. It is only then, we have reasoned, that we can afford the financial and moral costs of attending the UNHRC's Sessions. We have always held the belief that an institution devoid of a relatively outstanding stature at home can ill-afford to effectively participate in UNHRC's Sessions even if the possibility exists. Ineffective participation will not only fall short of promoting human rights, but may also pave the ground for abuses and misuses.

Dear friends,

Despite our physical absence from the UNHRC sessions, we have made a point of going thoroughly through adopted resolutions and reports of UNHRC and singled out the adopted human rights norms for analysis and finessed them to be applicable to our country's sensitive and subtle social context. Over the years we have meticulously scrutinized UN special rapporteur's report on the situation of human rights in Iran and the Resolutions issued concerning Iran and the recommendations of treaty bodies and reviewed the points in the documents for necessary follow-up action. It is also encouraging to know that most reports of the special rapporteur, resolutions related to Iran and the remarks and issues in treaty bodies concerning Iran, and even ILO's reports on Iran have in one way or another confirmed the Commission's performance. And their recommendations to the Commission at the early stages to remain independent, be compatible with the Paris Principle and push for pluralism have always been warmly embraced and treasured by the Commission as indispensable fundamentals for an independent and cutting edge national institution. We strongly believe that a national institution devoid of the required characteristics cannot succeed in healing the scars of the downtrodden and build confidence in people.

Dear Colleagues,

In our country the task of an independent institution is in fact doubly burdensome, simply because the roadmap of activities in a religious society is somewhat different from those of the secular societies. In a religious country both religious and international principles need to be targeted for the promotion of human rights activities. It also needs to be noted that in Iran we are dealing with the aftermath of a popular religious revolution that took place in 1979 and during the first decade of the revolution the country was devastated by the juggernaut of an imposed 8-year Iran-Iraq war. Also geopolitically Iran is sensitive and therefore vulnerable to be affected by tensions stemming from east, west, north and south. Further pressures exerted on the country originated from the influx of millions of immigrants particularly the Afghanis and Iraqis, which obviously stretched the financial and other potentialities of the country, a fact that was further exacerbated by the country's desperate need for the reconstruction of the war's aftermath. In this transitional process, the upturn in birth rate after the revolution and the shaping up of a new demographic pyramid ushered in new demands. The new generation is intent on shedding new light on its country's historical past and, while analyzing the functioning of the country in the past two decades of the revolution, it is hell bent on offering unorthodox solutions to the problems of the country. This demographic and cultural upheaval, has triggered a new benchmark for discourses in politics, culture, economics and even religious perceptions. In the core of this brand of new discourses the issue of human rights is outstandingly predominant. Amid this transition, some might push for reform, others might carry the mantle of conservatism, and still there are the fundamentalists vis-a-vis the libralists. But the truth of the matter is that these advocates, not matter what their advocacy revolves on, are adamantly demanded to clarify their positions with respect to the human rights of the people which is required to be both compatible with the sanctity of human life as well as being based on religious principles. In othe words, the ultimate decision will have to be made by the people. The last two presidential elections in the past five years, the Islamic Consultative Assembly elections (Parliament) last year, the local council elections nationwide and the approval rating and criticism of various political figures are all clear indications of the fact that, amid all the discourses and the concomitant tensions, the Iranian people are unwaveringly persistent on seeking and consolidating their inalienable rights no matter what price they pay for it. Therefore, the situation is ripe, on the one hand, for the people to push their demands as candidly as possible , and on the other hand, for the perpetrators of the violation of human rights to be ever more marginalized. This naturally prepares the grounds for launching further targeted efforts and places a huge responsibility on the human rights activists including the national

institution of IHRC to mount their utmost effort in order to put the following universally recognized criteria for good governance in place:

1. Expansion of the transparency of the country's affairs

2. Expansion of the accountability of the governmental organizations to the people

3. Development of civil society and people's participation in determining their own destiny

4. Realization and establishment of a system of fair trial and an independent judiciary system

5. Predominance of the rule of law in the country's affairs

6. Compatibility of laws with the sanctity of human beings and the elimination of discrimination in all the laws of the country

7. Reformation of the bureaucratic structure of the country to help eliminate people's problems

8. Protection of the security of the citizens irrespective of their religion, color, race, etc.

9. Promotion of the rights of the citizens in all their aspects including the provision of sustainable and an all-inclusive development

10. Special humanitarian protection from those who are vulnerable

11. Dissemination of the just requirements of morality

Ladies, gentlemen, and Mr./Ms. chairperson,

If the Commission intends to list all the violations of human rights and the price paid for the concomitant reform movements to counter the violations, they will add up to an outsize list. Even if the Commission recounts the cases of violations in the course of the past year, it will be quite sizable. It is also evident that our list of the violations will be much longer, more expansive and of course more meticulous than the ones forwarded from outside the country and for good reasons: we have direct access to the events and developments in the area of human rights such as freedom of speech, freedom of thought, women's rights, minorities'

rights, workers' rights, youth's rights, etc. there are many examples which display what has been done or should have been done but has been neglected. Such abuses of office in this regard is beyond doubt against the tenets of Islam, the country's constitution as well as Iran's international commitments. All said, however, allow me to call your attention to a very significant fact emerging in my country: the general process of the developments in Iran is promising and in keeping with the demands of the people. IHRC, as an independent national institution, is pushing ahead with efforts, while upholding its independence, to be as effective as possible. IHRC is relentlessly striving with an incremental policy of action that is compatible with the realities of the Iranian society and with an acknowledged impartiality towards political and partizen disputes, to put the realization of targeted objectives in place aimed at accelerating the pace of the observance of human rights in the country. In the year 2001 IHRC launched investigation into hundreds of human rights violation cases with mechanisms for follow-up actions. The results are published and is available for those who are interested. IHRC has also launched targeted efforts for the expansion of its human rights defenders network in the country. Along this line, it has embarked on signing an agreement with UNDP in November 2001 for the development of educational training for the human rights defenders network all over the country.Some other activities of the Commission are as follows: the launching of various educational programs, the expansion of the Commission's library and center for documents, the setting up of various seminars for the assessment of the performance of the various branches of the government, the dissemination of the conception of human rights and the drawing up of various plans to be presented to the Islamic Consultative Assembly (Parliament) aimed at promoting human rights. Still other programs launched by the Commission are the compilation and the preparation of follow-up mechanism for launching national plans of action for the promotion of women's rights, children's rights, and the rights of the minorities, activities whose importance can by no means be slighted. Also of considerable importance are the IHRC's active participation in international cooperation activities with various NGOs and national institutions, which have in some cases resulted in the signing of joint cooperation agreements whose implementation phases are now under way. Undoubtedly these activities have impacted the country positively. The fledgling Commission has also gained strength by dispatching representatives to various national institutions workshops in Asia-Pacific region, the Asia-Pacific regional arrangements meetings, sessions of international coordinating committee of national institutions on promotion and protection of human rights, and the Durban world conference.

Dear colleagues,

I should like to admit that there are still authorities in the country who are still grudgingly receptive of the national institution and at times engage in stonewalling and creating obstacles and the fact that national institution are not also immune from the negative reactions directed at the current patterns of discourses that is now prevalent in the country. But what is crystal clear is the fact that the oversight of the national institution on the performances of the country's governmental organizations is ever more boosted by the following factors: the independence of the national institution, the cooperation of other organizations with the national institution and the cooperation of people particularly the experts, legal and scientific figures of the society with the national institution. This obviously paints a much better picture for future.

I should now like to express thanks and gratitude to the UN high commissioner for human rights for her attention and cooperation with IHRC and also the UNHRC special rapporteurs. I would also like to assure the respectable audience here that this national institution will, by adamantly upholding and prizing its independence and undergoing all types of difficulties, continue its targeted efforts to promote human rights in Iran and other countries and will unfailingly draw upon the positive experiences of other independent national institutions the world over and also will actively participate in the activities and initiatives of other national institutions at regional or international levels particularly in bolstering the role of national institutions in the promotion of economic, social and cultural rights and the updating and completion of the Paris Principle to meet the requirements of the day and a more active participation of the national institutions in treaty bodies. I have high hopes that the world community with ever more increasing cooperation will strive to boost human rights the world over without biased selections and double standards. Undoubtedly the issue of human rights is sacrosanct and its abuse as an instrument deals an irreparable damage to humanity. The third millennium is by all standards in dire need of peace and friendship and the promotion of a spirit of cooperation and understanding and the streamlining of dialogue among civilizations the world over. As the renowned Iranian poet Hafez has beautifully put it:

"Sow the seeds of friendship to reap your heart's desire
Pull out the weed of hostility which will spell gloom and doom"

Thank you.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

STATEMENT BY
MR. MOHD. HAMDAN ADNAN
COMMISSIONER
HUMAN RIGHTS COMMISSION OF MALAYSIA

TO
THE 58TH SESSION OF THE COMMISSION ON HUMAN RIGHTS

UNDER
AGENDA ITEM 18(b)

GENEVA 18 APRIL 2002

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Mr. Chairman,

I have the honour of submitting this statement on behalf of the Human Rights Commission of Malaysia under agenda item 18(b) on Effective Functioning of Human Rights Mechanisms: National Institutions and Regional Arrangements.

2. The Human Rights Commission of Malaysia, or more popularly known by its acronym in the national language as SUHAKAM, is two years old April this year. While its inception was met with much scepticism on its effectiveness as a credible body in protecting and promoting human rights in Malaysia, through words and actions in the past year, SUHAKAM has slowly but surely demonstrated that it is indeed an independent and autonomous body.

3. In furtherance of the protection and promotion of human rights in Malaysia, the main functions of SUHAKAM as provided for under the Human Rights Commission of Malaysia Act 1999 are:

i. To promote awareness of and provide education in relation to human rights;
ii. To advise and assist the Malaysian Government in formulating legislation and administrative procedures and recommend the necessary measures to be taken;
iii. To recommend to the Government with regards to the subscription or accession of treaties and other international instruments in the field of human rights; and
iv. To inquire into complaints regarding the infringement of human rights.

These functions are discharged by various working groups and committees of SUHAKAM. Presently, there are 12 serving as Commissioners from the possible maximum number of 20.

4. The beginning of SUHAKAM's second year was marked with the arrests of several persons related to the *Reformasi* movement under the 1960 Internal Security Act (ISA), one of Malaysia's legislation that provides for detention without trial. SUHAKAM made a clear and unequivocal stand on this in stating that detention without trial constituted a fundamental human rights violation and it further urged the Government to charge all detainees in open court or to release them.

5. Since the arrests in April 2001, SUHAKAM has made three visits to the detention centre where ISA detainees are located. The latest visit was made on 13 April 2002 to look into the condition of the *Reformasi* detainees who went on a hunger strike in connection with their arrest and continued detention. A press statement was issued yesterday concerning this recent visit whereby SUHAKAM stated its intention to carry out an inquiry in relation thereto.

6. Throughout the past year, visits were also made to several other places of detention. Related to that, visitorial reports were issued, and complementary and further actions were undertaken on specific areas such as the Law Reform Report on the Rights of Remand Prisoners and the Workshop on the Rights of Young Prisoners. The latter event, held in

November 2001, was launched by the Minister concerned and had the participation of lawyers and officials from various Government agencies.

7. In August 2001, SUHAKAM released its findings on its first public inquiry conducted on its own motion to look into allegations of violation of human rights when the Police prevented a rally from taking place on the Kesas Highway on 5 November 2000. From the evidence adduced, 22 issues were raised and due consideration was given. Where violations of human rights were found to have occurred, recommendations were made to improve the situation and/or prevent recurrence of the violations.

8. The Malaysian Government response to this Kesas Highway Inquiry Report was that it was biased and idealistic, and that SUHAKAM had considered the issues raised from the perspective of a monitoring agency as opposed to the perspective of the Police that was faced with a big rally. However, the Malaysian Government noted seriously the allegations made of police violence in the incident and went on to set up a task force to study SUHAKAM's recommendations. To date, any interim conclusion or otherwise reached by this task force has yet to be made public or communicated to SUHAKAM.

9. Also in August 2001, SUHAKAM released its Law Reform Report on Freedom of Assembly. In this report, laws restrictive to the right to peaceful assembly was reviewed and recommendations were made to improve present laws and practices to ensure that both the right to freedom of assembly and the preservation of national security and public order are met. The Malaysian Government response to the recommendations was that they were unsuitable to the current socio-political situation in Malaysia.

10. In September 2001, the first Malaysian Human Rights Day carrying the theme "Rights of the Disadvantaged" was launched by the Deputy Prime Minister. To mark the event, a public forum on the same theme and a seminar on "Human Rights and the Media" were held. The public forum consisted of a plenary session, six concurrent workshops and a concluding session discussing issues concerning the rights of the indigenous peoples, women, children, disabled, people living with HIV/AIDS, the elderly, and workers, and was attended by Government agencies and non-Governmental organisations. A report on this public forum is expected to be completed soon.

11. In October 2001, a SUHAKAM team visited interior parts of the Sarawak state as follow-up to complaints and memoranda received from various groups representing indigenous peoples of Sarawak. Subsequently, meetings were also held with relevant Sarawak State Government agencies and earlier this year, a meeting was held with the Chief Minister, Head of the Sarawak State, to obtain the Government's views. A report on this is expected to be completed soon.

12. Other matters pursued in the past year include the investigation of individual and group complaints received over the year, the drawing up of human rights curricula for the

Police and for schools, and the repeal of the Banishment Act 1959 which SUHAKAM found to be outdated and redundant in view of the existing Immigration Act which provides the authorities with grounds to banish undesirable foreigners.

13. Previous recommendations made in SUHAKAM's 2000 Annual Report were also followed-up with the Government such as the ratification of the ICESCR, ICCPR and CAT. In that instance, the relevant Ministry has verbally assured SUHAKAM that periodic meetings have been held between relevant Government agencies to consider the ratification of the said 3 treaties. SUHAKAM is however unable to attend these meetings nor be privy to their details as SUHAKAM is not considered part of the Government's internal machinery.

14. Throughout the past year, SUHAKAM also continued to have informal lunches with various Ministers, hold dialogue sessions with different non-Governmental organisations, and go on road shows in several states to introduce and explain the role of SUHAKAM to diverse sectors of the Malaysian society and also to be sensitised to prevailing human rights issues. In efforts to reach out to parts far from the capital of Malaysia where the head office is located, SUHAKAM has also opened branch offices in the two states beyond the peninsular of Malaysia, Sabah and Sarawak.

15. Next week, the first term of SUHAKAM Commissioners will expire. Although the official list of Commissioners for the next term has yet to be released, it is our understanding that five distinguished and outstanding individuals from amongst these Commissioners will no longer be part of SUHAKAM. Out of these five, two had declined to be reappointed while indications have been given to the other three that their services are no longer required.

16. The Malaysian Government has clarified that it is employing a policy based on a one-third rotation amongst the Commissioners to continually import fresh ideas into SUHAKAM. However, since the three Commissioners whose services are no longer required in the next term also happen to be active and vocal chairpersons of SUHAKAM's working groups and committee, the credibility of SUHAKAM appears to be in question yet again.

17. Nonetheless, positive response is anticipated from the Malaysian Government on two major proposals that are made by SUHAKAM at the close of its first term. These proposals are firstly, amendments to the Human Rights Commission of Malaysia Act 1999 to further strengthen SUHAKAM and in line with the Paris Principles, and secondly, the development and implementation of a national plan of action for the promotion and protection of human rights as envisioned in the Vienna Declaration and Programme of Action.

Thank you.

18 April 2002

# 58TH SESSION OF THE COMMISSION ON HUMAN RIGHTS

## Statement from Mr. D. B. Seetulsingh, Chairman of the National Human Rights Commission, Mauritius

The National Human Rights Commission of Mauritius (NHRC) has been set up under the Protection of Human Rights Act 1998. By law, the Chairman has to be a former Judge of the Supreme Court. In April 2001, the Chairman and the three Members representing different cross-sections of society were appointed for a period of 4 years. The NHRC is empowered to investigate complaints of violation of human rights allegedly committed by persons performing a public function and more specifically complaints against police officers. It has the power to visit centres of detention and prisons, to look into the conditions of detention of inmates, to review the safeguards provided under any enactment for the protection of human rights and exercise other functions that are conducive to the promotion and protection of human rights.

Fundamental rights are entrenched in Chapter II of the Constitution which is largely based on the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Constitution was handed over as an Order in Council from Britain, the former colonial power, when it granted independence to Mauritius in 1968. The preservation of this Constitution reproducing the English Westminster model of Government has by and large helped to maintain political stability and has thereby ensured a certain measure of economic prosperity. Free and fair regulations are held regularly. There is a number of political parties. The economy rests upon labour intensive, export-oriented manufacturing (mainly textiles) employing a number of foreign workers as well as sugar and tourism. Per capita gross domestic product is around $ 3000 for the population of 1.1 million. New sectors of development are financial services and information technology.

Mauritius has ratified the major international covenants and conventions on civil and political rights, economic, social and cultural rights, the rights of women and children, the elimination of racial discrimination, the prohibition of torture as well as the African Charter on Human and People's Rights. The NHRC encourages the Government to submit regular reports to the treaty bodies. Considerable resources are devoted to maintaining a welfare state with free education up to the tertiary level, free medical services, a system of social security benefits and old age pensions and subsidised housing for low income groups.

Freedom of the press is also guaranteed. In addition radio broadcasting has been liberalised recently allowing for further free expression of ideas, including open criticism of government action.

The NHRC has a simplified procedure for any citizen to make complaints. In its first year of operation, it has received some 200 complaints, out of which about one third related to police brutality, both physical and verbal. The Commission has devoted a lot of time and efforts towards educating police officers about human rights. Some members of the police force still believe that they may deal with persons suspected of having committed criminal offences in a rough manner, although the training manual and standing orders of the Police Force do not in any way permit the use of physical violence against suspects. They have been warned that the Commission will not tolerate such outdated practices.

The NHRC first tries to resolve complaints through conciliation and has been quite successful in this endeavour. If it appears that a criminal offence has been committed, the NHRC

may refer the matter to the Director of Public Prosecutions. Otherwise, if disciplinary measures are envisaged, the Commission refers cases to the appropriate bodies for necessary action.

In its first Annual report for the period April to December 2001, the NHRC has witnessed few violations of human rights by public officers (apart from the cases of police brutality). Many complaints were more closely related to maladministration, a subject which is dealt with by the Ombudsman.

At the same time, since many members of the public were inclined to confuse human rights with ordinary rights arising under civil law (e.g. of a contractual nature), the NHRC has embarked on an information campaign to educate the public. This has included talks to NGOs, students and other members of civil society. This education campaign has been extended to Rodrigues, an island 350 miles north east of Mauritius, which forms part of Mauritian territory.

Some 50 foreigners acting as drugs couriers are now serving long sentences in Mauritian prisons. Legislation has been enacted to enable their transfer to prisons in their country of origin, especially to enable them to receive visits from their relatives. The NHRC has welcomed this move which promotes more humane conditions for prisoners.

Protection from Domestic Violence and Child Protection are dealt with by the Courts expeditiously. A proposed Sex Discrimination Bill is now under discussion and the NHRC may find its jurisdiction enlarged to deal with complaints of sex discrimination in all walks of life.

In its first year of existence, the National Human Rights Committee of Mauritius has shown its seriousness of purpose in acting as a watchdog for the fundamental rights of citizens.

# MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS REPORT TO THE 58TH SESSION OF THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS

**(Geneva, Switzerland, April, 2002)**

**Honorable President,**
**Distinguished colleagues,**

The foremost responsibility of a National Institution lays in the defense and promotion of human rights in its own country, in its field of competence as defined by its legal framework. Nevertheless, we recognize the importance of adding up our efforts to those initiatives and actions undertaken by the United Nations Commission on Human Rights, by the High Commissioner, by the thematic mechanisms and those created by the international instruments in this field to ensure the highest possible impact so that the international community achieve significative progress in the eradication of all abuse of power.

Notwithstanding the fact that the task to be accomplished is still enormous, and that the present situation still leaves much to be done, the achievements that have been attained by the CHR since its birth, demonstrate the efficiency of this approach. It is for this reason that this intervention is centered, at the international level, on the progress attained in the American Continent for the consolidation of the Network of National Institutions and, at the internal level, on the follow-up that the Mexican National Commission for Human Rights has given to the reports and agreements achieved in Durban, during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance.

## Network of National Institutions of the American Continent

In first place, the Network of National Institutions of the American Continent finished its consolidation process with the approval of its Statutes, last March 7th, in Kingston, Jamaica. On that occasion it adopted two more documents: the "Kingston Consensus" and the results of the First Workshop on the Rights of Indigenous Peoples, documents which I have attached to the present report, and which confirm the aim of the Network to act as a liaison between the global forums of the United Nations and the National Institutions of the American Continent, as well as to reinforce its links with the Interamerican System. In both cases, the search for contacts and cooperation with the rapporteurs and the thematic mechanisms will be a priority in our agenda.

Thus, the Network of the Americas will participate actively in the labours of the International Coordination Committee of National Institutions. I recognize and am grateful for the important support given by the Office of the United Nations High Commissioner for Human Rights, specially by Mrs. Mary Robinson and her team of collaborators, for the consolidation of the International Coordinating Committee, and their support for the establishment of the Network. Their active intervention made possible the celebration of the meeting in Kingston and, certainly, the work of the Mexican National Commission for Human Rights as Secretary *pro tempore* of the Network.

The consolidation of the international movement of defenders of human rights is needed urgently to influence decision making processes. The experience of what has been achieved by the National Institutions in Johannesburg and in Durban gives good account of the potential impact we can attain in international forums. I trust that the Network will allow us to go forward in the discussions inside the Commission on Human Rights and in the International Coordinating Committee.

**Follow-up of Durban Agreements**

In relation to the follow-up of the Durban Conference, the Mexican National Commission for Human Rights has centered its attention in the problems of vulnerable groups whose rights have been undermined by discrimination, abuse or negligence, such as those of the migrant populations, the indigenous populations and disabled people.

**Rights of the Migrants**

The Mexican National Commission sees migration as a human phenomenon, not as a problem, and for this reason considers that a person without legal documents as a person endowed with a dignity that must be respected without taking into account his migratory status.

Due to the fact that Mexico is a country that both receives and emits migrants, aside from also being a passage territory for migratory currents of foreigners who are trying to enter the United States, this National Institution opened offices in the southern and northern borders of the country, so as to be able to give attention to the complaints received against authorities linked to the migratory phenomenon and also to promote

the knowledge, study and teaching of these rights in those geographic areas. We maintain that it is the obligation of the Mexican Government to give an end to the abuses that take place against foreign migrants and to treat them as we hope Mexicans abroad will be treated, as well as defending the rights of their own migrants against the abuses and policies that endanger them. We recognize the efforts made in this direction, but it is evident that there is still much to be done.

On the other hand, we firmly reject policies such as Operation Gatekeeper, which last year alone took the lives of over 400 Mexican migrants, and also the recent decisions by the Judicial Branch in the United States denying labor rights to persons without legal documents, including those of the payment of wages for work rendered and the right of association, just by the fact that they find themselves in an irregular migratory situation. We consider that these actions and decisions contravene basic principles of justice and respect for the dignity of each person.

**Rights of Indigenous Peoples**

In Mexico many indigenous communities have not received the benefits of an equal level of development as the rest of the country. The Mexican National Commission is convinced of the need to find creative ways of backing the economic, social and cultural rights of these communities, and above all, their right to development, at the same time that their languages, cultures, usages, customs, religious practices, and specific forms of social organization are respected and they be given a real access to legal protection.

For this purpose, the Mexican National Commission created a specialized office for the attention of complaints against human rights violations of indigenous peoples. One of the main tasks of this office has been to audit the cases of indigenous people in the penitentiary system, labour which led to the early release of 922 indigenous interns during 2001. The mere magnitude of this figure is indicative of how much more there is still to be done in this field.

Special importance has been given to the work of the Special Rapporteur of the Commission for Human Rights on the Situation of the Human Rights and Fundamental Freedoms of Indigenous Peoples, to the initial proceedings of the Permanent Forum on

Indigenous Affairs and to the need to give a new impulse to the negotiations in favor of the adoption of a Declaration of Rights of Indigenous Peoples.

**Rights of Disabled Persons**

In Mexico there is an incipient knowledge of the rights of disabled persons, and it is extremely necessary to carry out an awareness campaign, at both the public and the private levels. Even the large cities lack of the urban equipment needed for the access to and within commercial centers, buildings or public places, to allow disabled persons to move, and interact socially and professionally. The project for the International Convention on Disabled Persons, that emerged from the agreements reached during the World Conference in Durban, could signify additional means of achieving this goal, and its been closely followed by the National Commission.

**Enforced Disappearances**

Finally, I want to mention, because of the historical importance for our country, the Special Report on the 532 enforced disappearances that took place during the decade of the 70's and beginning of the 80's, which became Recommendation 26/2001, the first one addressed to a President of Mexico, and one that will have a very healthy impact in the future, in the measure in which it contributes to the struggle against impunity. This report will be presented to the Working Group on Enforced or Involuntary Disappearances, and with this report the number of Mexican cases being followed-up by this Forum, will significantly diminish.

Thank you, very much.

Comisión Nacional de los
Derechos Humanos
MEXICO

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## KINGSTON CONSENSUS
(JAMAICA, MARCH 8, 2002)

The first General Assembly of the Network of the Americas' National Institutions for the Promotion and Protection of Human Rights met in Kingston, Jamaica from 7 to 8 March, 2002, and adopted by consensus the Statutes of the Network.

The Network is comprised of institutions created by constitutional provision or law and dedicated to the promotion and protection of human rights from all regions of the hemisphere - North America, Central and South America and the Caribbean.

All participants in the General Assembly of the Network agreed on the importance of enhancing cooperation among human rights institutions of the hemisphere and, to this end committed to work to:

1. Establish, maintain and promote a culture of respect for human rights in the region;
2. Implement the Paris Principles Relating to the Status and Functioning of National Institutions for the Promotion and Protection of Human Rights;
3. Promote regional government's recognition and implementation of agreements, recommendations, standards, and when appropriate court decisions, of the inter-American or international human rights system.
4. Strengthen, individually and collectively, the National Institutions of the Americas and support the development of emerging National Institutions from all other countries of the region;
5. Strengthen cooperation with non-governmental organisations devoted to promoting and protecting human rights.

National Institutions participating in the General Assembly of the Network agreed to enhance cooperation with the International Coordinating Committee of the National Institutions for the Promotion and Protection of Human Rights (ICC), the United Nations Office of the High Commissioner for Human Rights, the Organisation of American States and regional human rights associations such as the Caribbean Ombudsman Association (CARAOA), the Ibero-American Federation of Ombudsmen (FIO), the Andean Council of Public Defenders and the Central American Council of Human Rights Prosecutors.

National Institutions welcome the participation of the United Nations Office of the High Commissioner for Human Rights and call on it to support the Network on a sustainable basis.

Participants express their appreciation to the Public Defender of Jamaica, the Canadian Human Rights Commission and the Mexican Human Rights Commission for their contribution to the organisation of this meeting.

# DECLARATION

## NETWORK OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS OF THE AMERICAS

## WORKSHOP ON THE RIGHTS OF INDIGENOUS PEOPLES

JAMAICA MARCH 9, 2002

The Network of National Institutions for the Promotion and Protection of Human Rights of the Americas, meeting in Kingston, Jamaica, in the context of its First General Assembly and the holding of the Workshop of the Rights of Indigenous Peoples;

Reiterate the agreements adopted concerning the Rights of the indigenous Peoples in the Declaration of the Second Annual Meeting of National Institutions for the Promotion and Protection of Human Rights of the Americas, held in Mexico City in November 2000;

Given that it is the role of National Institutions to promote and understanding of the fundamental rights of indigenous peoples as well as their participatory mechanisms in themes of their interest nationally and internationally, agree to:

1. Assure the adoption of a working policy to guarantee respect for the principal of non-discrimination, including a cross-cutting-approach to gender and cultural perspectives.
2. Incorporate within the Network's Workshop, as a priority, the theme of promoting and protecting the rights of Indigenous Peoples.
3. Convene a Working Group within the Network to promote, develop and provide follow-up to the Work Plan.
4. Promote the fulfillment of agreements adopted during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in September 2001, as well as those of the Regional Preparatory Conference of the Americas held in Santiago de Chile in December 2000.
5. Inform the Indigenous People of the region of their right to participate as observers in the sessions of the Permanent Forum of Indigenous Issues.
6. Promote the participation of National Institutions of the Network in the Permanent Forum on Indigenous Issues, as well in other discussion and decision making bodies both regionally and nationally.
7. Appreciate the support of the United Nations Office of the High Commissioner and request it to continue to support in a sustainable manner of the work of the Network and development of its Work Plan.

Participants express their appreciation to the Public Defender of Jamaica, the Canadian Human Rights Commission and the Mexican Human Rights Commission for their contribution to the organization of this meeting.

# SPEECH BY MR. DALAIJAMTS, COMMISSIONER NATIONAL HUMAN RIGHTS COMMISSION OF MONGOLIA

## 58th Session of the UN Commission on Human Rights Geneva, 25 March – 16 April, 2002

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1. First may I thank the Commission for its continued support of the work of National Human Rights Institutions, expressed in part by the opportunity for representatives of the various institutions to address this important meeting. It is a great honour to be here.

2. This occasion is also a very appropriate one in which to pay tribute to the outstanding work and unstinting efforts of the High Commissioner for Human Rights, Her Excellency, Mary Robinson, in the promotion and protection of human rights.

3. Our institution in Mongolia only recently celebrated its first birthday. As one of the newer institutions may we acknowledge that our very successful first year, our participation here and at the very useful meetings of national institutions held over the past week – would not have been possible without the continued encouragement and very practical support of the High Commissioner and her dedicated staff.

4. We are indebted to her and to the Office of the Special Adviser on National Institutions whose valuable and generous support we gratefully acknowledge.

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5. The National Human Rights Commission of Mongolia has been operating for slightly over a year. We are a small Commission of three members and a modest staff of ten persons.

6. The Law on the National Human Rights Commission of Mongolia, fully consistent with the Paris Principles, provides for the Commission to, among other things,

   - make legislative proposals with relation to human rights,
   - issue recommendations and proposals on the conformity of existing and draft laws with human rights principles
   - make proposals for effective implementation of international human rights treaties,
   - conduct research on human right issues,
   - review and consider citizens' complaints,
   - increase public awareness about laws and international treaties related to human rights,
   - encourage accession to and ratification of international human right treaties.

7. The Commission is dedicated to carrying the message of human rights awareness, promotion and protection to all corners of our vast country, and to all of is citizens. To that end, the Commission has established collaborative relationships with government and non-government sectors to identify areas for cooperation, with agreements being reached in specific areas including human rights education, research and inquiries.

8. The investigation and restoration of human rights grievances is a key task of the Commission. The overwhelming number of complaints is related to arbitrary detention and abuse of power in the investigation procedure. Tere is an increasing number of complaints about ungrounded dismissal from employment, unjustified

refusal to employment and to schooling, failure to pay pensions and social benefits and so on. The Commission has developed and is continuing to refine its complaints processes in order to provide a fair process, accessible to all people.

9. The Commission is concerned that human right awareness among certain social groups is poor. The task of the Commission is to ensure human rights are relevant and applicable in the daily lives of people.

10. To that end, the Commission seeks for better and more effective cooperation with government, civil society and the media to educate the public on their rights and freedoms as enumerated in the Constitution of Mongolia and international human rights treaties. I am pleased to note that these activities have already achieved some positive results for raising human rights awareness.

11. The development of effective human rights education and promotion strategies is a key priority for the office.

12. As a new institution the Commission has been concerned to ensure its activities are based on comprehensive and reliable research. To that end the Commission has been active in conducting situational analysis on specific human rights in Mongolia including:

    - labour rights
    - the right to lodge complaints to state organizations and officials
    - freedom from discrimination on the grounds of political party membership, and
    - freedom of movement and freedom to choose residence.

13. Joint inquiries were conducted in cooperation with the Prosecutor General's Office of Mongolia into the human rights situation in pre-detention centers, police and detoxification stations in Ulaanbaatar city, and in cooperation with the

Mongolian Trade Unions Confederation, over the violations of workers' rights to wages, annual leave, safe and healthy working conditions.

14. Commissioners and staff actively participated in the Baseline Study of the Human Rights Situation in Mongolia, carried out nationwide under the HURISTMON project. This study was the first nation-wide analysis which is the essential basis for the development of realistic proposals and recommendations for human rights protection and promotion in Mongolia. The report of the study was published and delivered to the state officials, non-governmental organizations and the general public. The Commission directly led two research teams and Commission staff participated in specific research groups. The Commission also participated in the finalisation of the report of the study and its follow-up activities.

15. The Commission has established an Ex-officio Council consisting of eleven members from the Advocates association, the Confederation of Mongolian Trade Unions, and other NGOs active in the field of human rights in Mongolia to provide advisory services to the Commission.

16. To further develop its grassroots outreach the Commission highly values the opportunity to introduce an initiative authorizing national volunteers under the HURISTMON project as its representatives in each provinces. While not the official staff of the Commission, their role is significant in human rights education and investigation of human rights grievances in local areas.

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17. At the regional and international level, the Commission has established close working relationships with UNDP and the Office of High Commissioner for Human Rights.

18. The Commission actively participates in international and regional human rights conferences and workshops. Most importantly, the Commission became a member of the Asia Pacific Forum of National Human Rights Institutions in September, 2001. The Commission is keen to develop closer cooperation with regional and international human rights organizations to learn from their experience and best practices for the protection and promotion of human rights.

19. Finally, on behalf of Mr. Tserendorj, the Chief Commissioner of the National Human Rights Commission of Mongolia, I would like to express my sincere gratitude to UNDP and the Office of the High Commissioner for Human Rights, particularly the High Commissioner Mary Robinson and Mr Brian Burdekin, Special Adviser on National Institutions, for their valuable support in the strengthening of the National Human Rights Commission of Mongolia. This practical support not only ensures the capacity of the office to communicate with all parts of our country, but the policy advice and technical assistance strengthens the professional skills and knowledge of our staff, creating favourable conditions for the protection and promotion of human rights in Mongolia.

20. Thank you for the opportunity to present this report.

ENDS

*Monsieur le Président*
*Chers Collègues*
*Mesdames et Messieurs,*

C'est toujours avec grande satisfaction que le CCDH prend part annuellement à ce Forum International pour donner encore plus de substance à l'idéal commun des individus, des Nations et des peuples que sont les droits de l'homme .

De prime abord je tiens à rappeler que l'institution nationale de mon pays a fait l'objet, depuis un an, d'une réforme profonde afin de parfaire la conformité de son statut avec les célèbres Principes de Paris d'une part, élargir ses compétences et rationaliser davantage ses méthodes de travail d'autre part pour pouvoir répondre positivement aux aspirations du XXIème siècle en matière d'universalité et d'indivisibilité des droits de l'homme, notamment des catégories sociales les plus fragiles.

En outre, je tiens à ajouter que cette réforme s'est vue consolider davantage par la création de l'institution de Diwan Al Madhalim (le médiateur) pour prévenir l'abus du pouvoir dans l'administration.

Ceci étant, le bilan d'étape du CCDH pour cette année (2001-2002) est lui aussi largement positif ; il dénote un grand suivi dans l'action, ce qui a permis de réaliser une percée dans la promotion de la résolution des délicates questions de disparition et de détention arbitraire (1), la protection des droits de l'homme (2) et la promotion de leur culture (3).

1- tout d'abord la percée dans la résolution des cas de disparition et de détention arbitraire.

Il y a lieu de rappeler que le Conseil Consultatif des Droits de l'homme a été saisi par Sa Majesté le Roi, en 1998, de la question de la disparition forcée ;

- Il a recueilli, dans un premier temps, les données de sources diverses notamment des familles et des ONG nationales ou étrangères, puis il a procédé à leur vérification par recoupement ou, par des investigations complémentaires.
- Le Conseil a recommandé l'indemnisation des victimes, ou de leur ayants - droit ; et à cette fin, il a suggéré au souverain la création d'une Instance d'Arbitrage.

Le 16 Août 1999, Sa Majesté Mohamed VI a approuvé les recommandations et a décidé d'étendre la compétence matérielle de l'Instance d'Arbitrage aux cas de détention arbitraire.

L'Instance d'Arbitrage s'est attelée d'abord à élaborer son propre règlement, où elle a consacré toutes les garanties de la défense pour l'ensemble des demandeurs, et décidé de statuer sur toutes les affaires soumises à son examen, selon le réforentiel de justice et d'équité.

Quant à l'élaboration des critères d'évaluation des indemnités, l'instance n'a pas manqué de prendre connaissance des expériences et des jurisprudences étrangères en la matière, en plus des principes pertinents du Droit international des droits de l 'homme.

L'Instance d'Arbitrage a pris actuellement un rythme de croisière dans le traitement du contentieux dont la fin pointe à l'horizon, voire s'annonce tout proche.

Par ailleurs, l'expérience marocaine présente la singularité d'être menée à bien dans un contexte de stabilité politique et de continuité constitutionelle remarquables. Le nombre de cas est fort limité eu égard aux réalités des autres pays ; et bon nombre de personnes considérées comme disparues sont revenues saines et sauves à leur famille. Les mesures de prévention qui s'imposent sont déjà prises et d'autres sont en cours.

2- Ensuite la percée dans la protection des droits de l'homme.

Il est certain qu'en matière de promotion et de protection des droits de l'homme, il ne suffit pas d'aller de l'avant, mais il faut également lutter contre la tentation du repli ; par conséquent, le parallélisme entre la protection et la promotion ne doit en aucun cas être négligé ; Le Conseil Consultatif des Droits de l'Homme a œuvrer sans répit durant la période de référence pour :

- La bonne gestion des milliers de plaintes parvenues au Conseil directement des plaignants, ou rapportées par voie de presse, ou des ONG s'occupant des droits de l'homme ;
- Conseil juridique assuré aux plaignants.
- Poursuite des visites des prisons dans le cadre d'un Programme général d'évaluation de l'évolution de l'état des établissements pénitentiaires du Royaume ou à la suite d'une alerte déclenchée par une plainte ou une dénonciation spécifique ;
- dénonciation des violations des droits de l'homme dont sont victimes les marocains Requestrés à Tindouf

En effet, il y a un foyer de violation massive et délibérée des droits fondamentaux que l'on ne dénonce pas assez. Ce sont les Camps de Tindouf où les dirigeant du Polisario prennent en otage

des milliers de vieillards, femmes et enfants marocains. Ces derniers subissent, toutes sortes de sévices : ils sont privés des droits élémentaires, notamment du :

- ♦ droit à la liberté d'expression, d'opinion et d'association et de vote;
- ♦ droit à la liberté de circulation et de retour au pays ;
- ♦ droit élémentaire au regroupement familial, voire même à l'éducation des enfants..

Plus horrible encore, des milliers d'enfants ont été embrigadés et envoyés à l'étranger pour parfaire leur formation belliciste. D'ailleurs quand ils sont de retour ils sont en rupture culturelle et sociale totale avec leurs parents (oubli de la langue maternelle).

Ce drame ne constitue qu'un aspect des graves violations des droits de l'homme perpétrées à Tindouf et dont les ONG internationales les plus crédibles se sont fait l'écho dans leurs rapports périodiques (Amnesty International, Human Rights Watch, FIDH ...).

3- Enfin la percée dans la promotion des droits de l'homme.

Il s'agit notamment de :

- La poursuite des examens des projets de code ou de lois ayant un rapport direct avec les droits et les libertés fondamentales de la personne, c'est le cas avec le Projet de révision du Code Pénal, et le Projet du Code de Procédure Pénale actuellement en examen au parlement. L'examen de ces projets s'est appuyé sur le référentiel universel des droits de l'homme ;
- La diffusion de la culture des droits de l'homme, véritable garantie de ces droits, notamment par voie de :
  - ♦ Colloques, tables rondes ou séminaires de formation (exemple : droits des personnes handicapées, droits de l'enfant, protection des émigrés ...) ;
  - ♦ Conférences et cours dans les établissement de formation des agents de l'exécution des lois (Institutions Nationales des Etudes judiciaires, les magistrats, les responsables des prisons, les secrétaires greffiers, Ecole de Perfectionnement des Cadres du Ministère de l'intérieur, Académie militaire, Ecole de Gendarmerie Royale ) ;
- Colloque sur « le détenu et les droits de l'homme » (11 Mai 2002).

  - ♦ Publication de la version arabe de « l'Etude comparative entre la Déclaration Universelle des Droits de l'Homme et l'Ordre juridique marocain » que le conseil a réalisée dans le cadre de

la mise en œuvre du plan d'action de la Conférence Mondiale contre la discrimination raciale ;

- La publication des actes de la Vème Rencontre des Institutions Nationales qui a eu lieu à Rabat en Avril 2000 .
- La publication du bulletin d'information du conseil.

En outre, cette promotion de la culture des droits de l'homme ne s'est pas limitée à l'echelle nationale mais elle s'est étendue à la dimension internationale ; car le Conseil Consultatif demeure convaincu que la coopération internationale en matière des droits de l'homme est le corollaire de l'universalité de ces droits ; Par conséquent, il continue à déployer des efforts coopérationnels intenses ; il se propose d'organiser :

un colloque sur le thème :

- "Presse et droit de l'homme" en coopération avec la Commission Française ;
- La II Rencontre des Educateurs du Maroc et d'Andalousie à Grenade (Espagne) ;
- Assistance technique aux pays, notamment arabes, désireux de se doter d'institutions nationales .
- Participation active à la II Rencontre méditerranéenne des Institutions Nationales qui s'est tenue à Athènes/Grèce.
- Accueil d'acteurs importants de la promotion de la culture des droits de l'homme :

Le Défenseur du mineur de la Communauté de Madrid/Espagne,

De nombreuses délégations de parlementaire et d'ONG des droits de l'homme.

A cette activité bilatérale s'ajoute la coopération multilaterale dans le cadre de la présidence du CIC qu'assure actuellement le CCDH.

Enfin, je ne saurais conclure sans dire notre indignation face aux graves violations des droits de l'homme que connaît la Palestine et que nous condamnons de la manière la plus ferme ; par ailleurs, nous adhérons entièrement à la position, combien honorable, de Mme le Haut Commissaire, Mary Robinson, portant dénonciation sans équivoque des graves violation des droits de l'homme et de la discrimination que subit le peuple palestinien soumis aujourd'hui à un blocus militaire total ; nous nous félicitons de son appel à l'envoi d'une force onusienne d'interposition pour protéger le peuple Palestinien .

Je vous remercie.

République Du Niger
Commission Nationale des Droits de l'Homme
Et des Libertés Fondamentales
1, Rue du Plateau
Tel/Fax : 72 26 54
E-mail : cndhlf@intnet.ne

# DISCOURS DU PRÉSIDENT OUMARIA MAMANE DEVANT LA 58° SESSION DE LA COMMISSION DES NATIONS UNIES POUR LES DROITS DE L'HOMME

*Genève, Avril 2002*

Monsieur le président,

Mesdames et messieurs les membres du Bureau de séance,

Distingués délégués,

Mesdames et Messieurs,

C'est pour moi un grand honneur et une légitime fierté de prendre la parole pour la première fois devant cette auguste assemblée au moment ou la lutte pour les droits de l'homme se mondialise de plus en plus à travers l'adhésion massive de nombreux pays aux principes du respect de la personne humaine. La délégation de la commission du Niger salue la création de la cour internationale de justice le 11 avril dernier après un long et difficile parcours. Le Niger est fier de figurer parmi les pays qui ont rendu possible ce grand événement qui ouvre la voie à une nouvelle ère en matière de droits de l'homme. L'espoir renaît dans les cœurs de ceux qui ont été bafoués dans leurs dignités et qui n'ont que trop attendu ce jour qui fera date dans l'histoire de l'humanité. La peur change de camp pour hanter le sommeil de ceux qui par la disposition des choses, s'étaient cru au-dessus de la loi. Mesdames, messieurs, rien ne sera plus comme avant ! Ce XXIè siècle est celui de des droits de l'homme, des libertés fondamentales et de la paix. Il s'agit là de nobles valeurs qui nous interpellent tous sans distinction de race et de culture, de religion ou de classe.

Monsieur le Président

Distingués délégués

La commission nationale des droits de l'homme et des libertés fondamentales que j'ai l'honneur de présider est une jeune institution créée par la constitution de notre pays. La mission qui lui a été assignée consiste à promouvoir et à veiller à l'effectivité des droits et des libertés garantis par le titre II de la loi fondamentale. Son statut est conforme aux principes de Paris. Il est heureux aujourd'hui de constater sur notre continent l'émergence de telles institutions. C'est la preuve que l'Afrique ne veut pas rester en marge du mouvement mondial en faveur des droits de l'Homme.

Monsieur le Président,

A l'évidence, les principes de Paris constituent le cadre normatif permettant à nos institutions d'être indépendantes dans l'accomplissement de leur noble mission de protection et de promotion de droits de l'homme. Il conviendrait de veiller sur ces principes en les protégeant juridiquement tout en demandant aux Etats partis prenantes de s'y conformer scrupuleusement. Tout l'enjeu de la lutte pour la protection de droits de l'Homme se situe à ce niveau. Si pour les institutions du Nord la tache semble moins périlleuse en raison d'une opinion publique vigilante, pour les institutions des pays en pleine transition démocratique, la tache est complexe. En effet, face aux violations massives des droits de l'Homme imputables assez souvent au politique, aux agents de l'administration aux forces de l'ordre, elles doivent courageusement mener les enquêtes et dénoncer ces actes. Nombre d'institutions qui osent le faire, se heurtent à de multiples difficultés opposées par le politique. En effet, le politique prend des actes de nature à remettre en cause l'indépendance de ces institutions jugées trop téméraires. La commission du Niger en a fait l'amère expérience. Ses statuts ont été maintenus grâce à une mobilisation de l'opinion nationale et des partenaires au rang desquels le Haut Commissariat des Nations Unies pour les Droits de l'Homme que nous remercions vivement.

La Commission des Nations Unies pour les Droits de l'Homme doit prendre à ce sujet des décisions allant dans le sens d'une plus grande protection de nos institutions et des défenseurs des droits de l'homme.

Mesdames et Messieurs

Il est un truisme aujourd'hui d'affirmer que la paix et le développement de toutes les nations sont largement tributaires des respects des droits de l'Homme. Le rôle de toutes les organisations qui œuvrent pour la protection des droits de l'homme est par conséquent déterminant. Il est ainsi souhaitable qu'un dialogue des plus francs puisse s'instaurer au sein de nos Etats entre tous les acteurs à savoir le gouvernement, les institutions nationale et les organisations non gouvernementales. Au Niger, nous commençons à enregistrer quelques progrès sur ce plan. En effet, les autorités politiques et l'opinion publique font de plus en plus attention aux rapports publiés par la Commission Nationale des droits de l'homme et libertés fondamentales et aux interpellations des associations de défense de droits de l'homme.

Cependant, beaucoup reste à faire pour parvenir à sanctionner les auteurs de violations des droits de l'Homme.

Monsieur le président,

Les droits de l'homme a-t-on coutume de dire sont à l'image de l'horizon, plus on s'en approche, plus il s'éloigne .Il nous semble plus que jamais ,aujourd'hui malgré leurs extremes variétés et leur caractère indivisible de porter une attention toute particulière sur un certain nombre d'entre eux. Il s'agit :

-Des Droits économiques et sociaux. En effet la globalisation et la mondialisation et notamment les programmes d'Ajustement structurel signés par nos Etats avec les institutions financières de Brettons Wood ont réduit au chomage de jeunes diplomés et mis à la retraite anticipée de nombreux travailleurs .Monsieur le président, c'est là une source d'implosion sociale qui doit préoccuper la Commission des nations Unies pour les droits de l'Homme.

-Des droits de certaines catégories sociales défavorisées. Il s'agit des handicapés physiques et mentaux .des travailleurs migrants et des minorités etc…

-Du droit à un environnement sain afin de préserver notre écosystème des pratiques dévastatrices de certaines multinationales en quête constante de profit.

Monsieur le président ,

Mesdames et messieurs les membres du bureau de séance ,

Distingués délégués

Mesdames et messieurs

Mon institution voudrais du haut de cette tribune rendre un vibrant hommage à Madame Mary Robinson Haut Commissaire des nations Unies aux droits de l'homme pour son combat épique à travers le monde dans le cadre de la promotion des droits de l'homme et des libertés fondamentales . Elle a largement contribué à l'éclosion des institutions nationales des droits de l'homme dans le monde Elle n'a eu cesse durant son mandat avec ses collaborateurs de nous

apporter assistance et conseil. La Commission nigérienne des droits de l'homme et des Libertés fondamentales lui en sait vivement gré .Nous aurions naturellement voulu la voir continuer son mandat.

C'est sur cet hommage et en invitant votre auguste assemblée à prendre des décisions courageuses pour protéger les droits de l'homme que je termine cette brève allocution.

Je vous remercie de votre attention.

# HUMAN RIGHTS IN NORTHERN IRELAND

## A STATEMENT BY THE NORTHERN IRELAND HUMAN RIGHTS COMMISSION

## TO THE UNITED NATIONS HUMAN RIGHTS COMMISSION

**58th Session**
**Agenda Item 18(b)**

**Geneva, April 2002**

CHECK AGAINST DELIVERY

## HUMAN RIGHTS IN NORTHERN IRELAND

### A STATEMENT BY THE NORTHERN IRELAND HUMAN RIGHTS COMMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMISSION

**58th Session, Agenda Item 18(b), Geneva, April 2002**

*Chairperson,*

1. The Northern Ireland Human Rights Commission has been in existence since March 1999 and is one of the bodies helping to secure the peace process in Northern Ireland in the wake of the Belfast (Good Friday) Agreement of 1998.

2. In February 2001 the Commission made 25 recommendations to the UK Government on how the Commission's role could be enhanced to make it more effective. Over a year later the Commission is still awaiting the Government's response to these recommendations.

3. Meanwhile the Commission has pursued through the courts its claim that it be allowed to intervene in court cases. Its case was heard last month by the UK's highest court, the House of Lords. We were pleased that the UK Government intervened in the case to support our claim.

4. The Government responded to our requests for additional resources last year by allocating us a further £548,000. But for the current financial year we have been asked to plan for a budget which in real terms is *smaller* than that with which we began working three years ago.

5. From time to time the Commission is obstructed in its work by its inability to compel any person to disclose information about alleged human rights abuses. Despite developing a generally good relationship with the reformed Police Service of Northern Ireland, we have been denied access to important police documents. We have not been able to see information used by the Government to justify the renewal of emergency powers exclusive to Northern Ireland and we were not consulted prior to the publication of the Government's proposed anti-terrorism legislation following the events of 11 September. We continue to believe that the Government has broken

the promise it made in 1998 to "fully co-operate" with the Commission in its investigations.

6. The Commission has repeated its call for a full-scale judicial inquiry into the murder of solicitor Patrick Finucane in 1989. It is increasingly concerned that a similar inquiry may be required into the murders of the Loyalist Billy Wright in 1997 and solicitor Rosemary Nelson in 1999. The Government promised in August 2001 that it would appoint an internationally respected judge to look again at these and other cases, but no such appointment has yet been made.

7. The Commission is pleased that the Police Ombudsman's office is now fully operational and that the new Police Service and Policing Board are functioning. We have been able to influence the content of the proposed Code of Ethics for the new Police Service as well as some other police policy documents.

8. We regret to have to report that the British Government's response to judgements of the European Court of Human Rights on the right to life in May 2001 has been slow and inadequate. We believe that much more needs to be done to ensure that deaths in Northern Ireland, especially those alleged to have been caused by members of the security forces, are promptly, thoroughly and independently investigated in line with the European Court's requirements.

9. During the last four months the UK Government has been piloting through Parliament a Bill to reform the criminal justice system in Northern Ireland. While there is much in the Bill which the Commission commends, we remain seriously disappointed that it fails to meet internationally accepted standards on a public prosecutor's duty to give reasons for not pursuing a prosecution and the handling of young people who have allegedly committed a crime.

10. The Commission recently published the report of its first formal investigation, which was into the way children are treated in juvenile justice centres. We concluded that there were breaches of human rights in areas such as the education and health care provided to such children.

11. The Commission remains deeply concerned at the level of paramilitary violence in Northern Ireland. In 2001 there were at least 17 murders and 331 so-called "punishment" attacks committed by paramilitaries. Several of the victims of these

attacks were children. The Commission has brought together the relevant agencies in Northern Ireland in an attempt to devise a strategy which will help reduce the incidence of such human rights abuses.

12. The Commission has continued its more general work on victims' rights and will report on the matter next month. The Commission is also engaged on a review of mental health law and practice and on research into discrimination against older persons in the health system.

13. The Commission has continued to assist many people with their court proceedings. The cases involve issues such as the compatibility of the mental health review tribunal rules with the European Convention on Human Rights, the right to compensation of persons who have been wrongfully denied access to a solicitor while in police custody and the right to life of young persons held in a Young Offenders' Centre.

14. The Commission has continued to consider which rights, supplementary to those in the European Convention, should be contained in a Bill of Rights for Northern Ireland. We published a consultation document on this in September 2001 and we plan to spend most of 2002 in deepening our examination of some of the key issues which have so far emerged. The Commission is working closely with the Equality Commission for Northern Ireland to ensure that there is no unnecessary duplication of effort on anti-discrimination work and to support that Commission's attempts to secure new broad-ranging equality legislation within the Northern Ireland Assembly.

15. The Commission has just co-published a new edition of an important practical guide to the UN's human rights machinery. In October 2001 we gave evidence to the UN's Human Rights Committee on the UK's Fifth Periodic Report on the Covenant on Civil and Political Rights. Later this year we will be appearing before the UN's Committee on the Rights of the Child to comment on the latest UK report on children's rights. The Commission welcomes the imminent appointment of a Children's Commissioner in Northern Ireland but notes that much more still needs to be done to ensure, for example, that children's rights to education - and to have their voice heard – are fully recognised. The Commission has been active in trying to protect the rights of children at the Holy Cross Girls' Primary School and other vulnerable schools in North Belfast.

16. Also this year the Commission will be commenting on the UK's Periodic Report to the UN's Economic, Social and Cultural Rights Committee and will be attending the Committee's hearing on the report.

17. The Northern Ireland and Republic of Ireland Human Rights Commissions have established a Joint Committee to draw up a Charter of Rights for the whole island and to consider other human rights issues with an all-island dimension. The two Commissions will be hosting the Second Round Table for the Council of Europe and European NHRIs in November of this year. My Commission has also worked closely with the British Council and in line with the policy of the High Commissioner is seeking to help emergent national human rights institutions in other parts of the world.

18. The Northern Ireland Human Rights Commission believes that much progress has been made in the protection of human rights in Northern Ireland in recent years but that much still remains to be done. It will be pressing both the regional and the national governments to ensure further progress.

**Professor Brice Dickson,**
**Chief Commissioner**

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**COMMISSION NATIONALE DES DROITS DE L'HOMME DU RWANDA**
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# 58ème Session de la Commission des Droits de l'Homme des Nations Unies

**Intervention de Monsieur Théodore SIMBURUDALI , Commissaire à la Commission Nationale des Droits de l'Homme du Rwanda**

**Point 18 (b) de l'ordre du jour Genève , 16 avril 2002**

Monsieur le Président,
Excellences,
Distingués Délégués
Mesdames, Messieurs

Il m'est agréable de prendre la parole devant cette Auguste Assemblée en tant que Membre de la Commission Nationale des Droits de l'Homme du Rwanda, pour vous faire part de l'évolution de notre Institution au cours de ses deux années et onze mois d' existence.

La Commission Nationale des Droits de l'Homme du Rwanda trouve son fondement dans la constitution Rwandaise et plus Précisément dans la loi n° 04/99 du 12 mars 1999.
Dotée d'un mandat national de protection et de promotion des Droits de l'Homme, en conformité avec les « Principes de Paris », la Commission exerce ses compétences en toute indépendance, sur base d'un programme d'activités établi par ses sept membres en collaboration avec son personnel qui comprend aujourd'hui, cent neuf (109) personnes dont soixante dix neuf (79) au siège de la Commission et trente (30) dans les bureaux des dix provinces mis sur pied depuis juillet 2001.

La Commission compte renforcer sa présence et son action dans les provinces et les districts du pays de façon à améliorer l'accessibilité de ses services à l'ensemble de la population, mais surtout pour le monitoring des procès dans les juridictions Gacaca qui vont bientôt démarrer dans notre pays.

Monsieur le Président,
Excellences,
Distingués Délégués,
Mesdames et Messieurs

La Commission Nationale des Droits de l'Homme du Rwanda joue pleinement son rôle de promotion et de protection des Droits de l'Homme et a pu asseoir son image d'Institution indépendante, capable d'aborder les questions de Droits de l'Homme au Rwanda en toute impartialité.
Cela se remarque dans des rapports d'activités publiés annuellement et chaque fois que de besoin. Au moment où je vous parle le rapport 2001, troisième du genre, est sous presse et sera disponible très prochainement en langue nationale,

le Kinyarwanda, les versions française et anglaise seront certainement disponibles au mois de mai.

La Commission Nationale du Rwanda poursuit ses activités de protection des Droits de l'Homme en traitant un nombre important de plaintes individuelles qui lui sont adressées. La plupart de ces plaintes sont liées aux problèmes de la justice, nous pouvons citer :

- Le non respect de la procédure pénale dans certaines arrestations et mises en détention préventives ;
- La non exécution des décisions judiciaires ;
- La lenteur dans les procès.

Mise à part le traitement des plaintes individuelles, la Commission Nationale des Droits de l'Homme du Rwanda s'investit pour trouver des solutions à certains problèmes d'ordre thématique. Il s'agit notamment : des problèmes liés à la situation des enfants et les problèmes liés à la pauvreté de la population Rwandaise.

## Les problèmes liés à la situation des enfants

Le plus épineux de ces problèmes est celui des enfants orphelins du Génocide de 1994 dont le pays célèbre aujourd'hui la 8ème commémoration. Il est important de souligner que la préoccupation de la Commission pour ces enfants est leurs droits à l'héritage et à la jouissance du patrimoine de leurs parents défunts.

En ce qui concerne les enfants de la rue, la Commission encourage les ministères ayant l'enfant dans leurs attributions à leur trouver une solution.

## Le problème de pauvreté de la population rwandaise

La pauvreté est , dans bien des cas, à l'origine des violations des Droits de l'Homme.

Ainsi, une telle situation ,ne peut laisser indifférente la Commission Nationale des Droits de l'Homme du Rwanda. Cependant, il est heureux de signaler qu'une Commission a été mise sur pied par le Gouvernement Rwandais pour arrêter les stratégies de lutte contre la pauvreté.

Outre les rôles de protection et de promotion des Droits de l'Homme, la Commission Nationale des Droits de l'Homme du Rwanda joue aussi son rôle de consolider la culture des Droits de l'Homme dans le pays par son programme d'éducation et de sensibilisation destiné à des différents groupes cibles :

- Le programme de formation aux Droits et à la protection des enfants avant , pendant et après les conflits armés. Ce programme soutenu par l'UNICEF Rwanda est destiné au personnel Militaire de l'Armée Patriotique Rwandaise.
- Des programmes de sensibilisation aux valeurs et aux instruments de sauvegarde des Droits de l'Homme ont été menés par la Commission en collaboration avec d'autres partenaires soucieux du respect des Droits de l'Homme au Rwanda. Les activités visaient spécialement certains groupes comme les policiers, les gardiens des prisons, les autorités de base, les élèves et étudiants; le grand public par une émission sur les Droits de l'Homme hebdomadaire diffusée sur les ondes de Radio Rwanda.

En collaboration avec le Ministère de l'éducation, la Commission Nationale des Droits de l'Homme va élaborer très prochainement des programmes d'enseignement aux Droits de l'Homme et du matériel didactique qui seront intégrés dans le programme d'enseignement à partir du primaire jusqu'à l'enseignement supérieur.

En matière de développement Institutionnel, la Commission Nationale des Droits de l'Homme au Rwanda vient de se doter d'un Plan d'Action triennal 2001-2003, réalisé grâce au financement du Gouvernement Suisse à travers le Programme des Nations Unies pour le Développement (PNUD°.

Certaines activités du Plan d'Action sont maintenant en cours de réalisation grâce à l'appui du Haut Commissariat des Nations Unies aux Droits de l'Homme dans le Projet RWA/01/AH/42.

Ce projet sera bénéfique pour la Commission, car il permettra au personnel de la Commission du siège et des bureaux régionaux d'acquérir des connaissances nécessaires à l'accomplissement de leur mission.

Les activités privilégiés dans le projet visent essentiellement la formation en principe de Droits de l'Homme, la formation dans des techniques d'enquêtes, la formation dans la médiation et la conciliation, la formation sur les principes internationaux de justice y compris une session sur la justice participative Gacaca, laquelle justice va bientôt démarrer dans le pays pour juger les crimes de génocide et les crimes contre l'humanité commis entre le 1$^{er}$ octobre 1990 et le 31 décembre 1994.

La Commission Nationale des Droits de l'Homme se prépare activement pour suivre avec attention le fonctionnement de ces juridictions dans le but d'observer le respect des Droits des suspects et des victimes du Génocide. Cette action sera réalisée grâce à l'appui de l'Union Européenne.

Pour renforcer les pouvoirs de la Commission un projet d'amendement de la loi créant la Commission a été déposé au gouvernement pour examen, les services techniques du Ministère de la Justice et de la Commission se sont déjà convenus sur les grandes orientations de modification de la loi.

D'autres programmes de renforcement de capacités sont en cours, je mentionnerai à titre d'exemple l'automatisation des services de la Commission, ce qui permettra la mise en place d'un système de gestion des plaintes automatisé en vu d'en faciliter le traitement dans un délai raisonnable.

Monsieur le Président, Mes dames, Messieurs,

Vous me permettez avant de conclure de dire qu'après avoir établi et construit ses structures internes , la Commission Nationale des Droits de l'Homme du Rwanda est aujourd'hui perçue par la population rwandaise et la société civile au Rwanda comme une institution indépendante et efficace en matière des Droits de l'Homme grâce notamment à sa façon de traiter les plaintes de violations des Droits de l'Homme et de rendre public les résultats de ses enquêtes dans un rapport d'activités et grâce aussi à sa vaste série de programmes de sensibilisation aux Droits de l'Homme.

Je dois dire cependant que le chemin est encore long pour asseoir une véritable culture des Droits de l'Homme dans un pays caractérisé, pendant des décennies par l'injustice, les divisions à base ethnique, des tueries qui ont culminé avec le génocide de 1994 et la culture de l'impunité. C'est pourquoi, j'attire l'attention et la compréhension de la Communauté Internationale sur les réalisations positives du Gouvernement Rwandais en ce qui concerne surtout le rétablissement d'un climat de sécurité dans le pays, la sensibilisation de la population pour les valeurs d'unité nationale et de la réconciliation, les programmes de la réduction de la pauvreté et le soutien manifeste des Institutions de Bonne Gouvernance y compris la Commission Nationale des Droits de l'Homme.

Je voudrais, pour terminer, rendre hommage à Madame Mary Robinson, Haut Commissaire des Nations Unies aux Doits de l'Homme et son équipe pour le soutien combien louable et l'attention bienveillante à l'égard des Institutions Nationales des Droits de l'Homme en général et de la Commission Nationale des Droits de l'Homme du Rwanda en particulier.

~~J'ai dis et~~ Je vous remercie pour votre attention

STATEMENT BY THE

CHAIRPERSON OF THE SOUTH AFRICAN

HUMAN RIGHTS COMMISSION,

MS SHIRLEY E. MABUSELA,

TO THE 58TH ORDINARY SESSION OF THE

COMMISSION ON HUMAN RIGHTS

AGENDA ITEMS 18(b),

NATIONAL INSTITUTIONS

18 APRIL 2002
GENEVA

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**Statement by the Chairperson of the South African Human Rights Commission, Ms Shirley E. Mabusela, to the 58th Ordinary Session of the United Nations Commission on Human Rights**

**Agenda Item 18(b)**

**National Institutions**

**Geneva**

**18 April 2002**

Chairperson, Honourable members of the Commission, Your Excellencies, Distinguished colleagues of national institutions, members of INGOs and NGOs, Ladies and Gentlemen,

I submit this statement on behalf of my institution, the South African Human Rights Commission, to raise before you some of the concerns and challenges facing us as a national institution in South Africa and beyond our borders.

The South African Human Rights Commission believes that the role of national institutions as a mechanism for the promotion and protection of human rights has grown tremendously over the past few years, especially with the relentless support from the Office of the High Commissioner for Human Rights. National human rights commissions have the potential to contribute positively to the establishment of democracy, of representative and accountable governance and in the development and observance of human rights both at domestic, regional and international levels.

National institutions exercising appropriate autonomy are best placed to undertake public awareness, training and education programmes. They can provide easy access to legal assistance in an environment and language simple and user friendly enough to be close to the people and their needs. In order to fulfil these roles, national institutions of necessity have to guard their independence and impartiality jealously, otherwise they may be in danger of losing public confidence.

One serious challenge facing us all as national institutions is what to do with human rights violations outside our borders. Our Commission has recently been seized with complaints from neighbouring countries and we have received numerous requests from human rights groups to ask what we can do with the situation in these countries.

Because of the difficult political and deteriorating economic situation in some of the neighbouring countries, South Africa has seen a large increase of migrants, the majority of whom are undocumented, seeking refuge and greener pastures. These migrants are vulnerable and are open to exploitation either as sex workers, child labourers and as cheap labour. Many live under deplorable inhuman conditions and

some are maltreated by overzealous citizens or law enforcement officials with xenophobic tendencies.

The challenge for the Commission is to ensure proper treatment of migrants, asylum seekers and refugees and ensure that government policy and practices towards these categories of persons is consistent with our Constitution, regional and international human rights instruments.

The Commission has undertaken various activities in the domain of migration and asylum seekers. The Commission's Roll Back Xenophobia (RBX) Campaign, which is carried out in collaboration with organs of civil society and the UNHCR has been instrumental in sensitising the population on the negative effects of xenophobia. The Commission has published two research reports on the plight of undocumented immigrants in the country and regularly visits the Lindela Holding Centre for "illegal immigrants".

The Commission is currently scrutinising the Immigration Bill, which is scheduled to be discussed at the current session of Parliament. Extensive comments have been made on the Bill and the Commission intends to make these comments known to the authorities before the Bill is adopted.

Undeniably, the violation of human rights anywhere, especially in neighbouring countries is of major concern to the Commission not only because the dignity and human worth of human beings are being trampled upon, but also because it has an indirect repercussions on human rights violations in South Africa as well.

The destiny of our country is inextricably linked to events that take place on our continent and initiatives like the African Union, African Renaissance and the NEPAD would be adversely affected if concerted efforts are not made to guarantee respect for human rights for all.

The Commission is also faced with internal challenges – the HIV/AIDS pandemic being the most serious of them. The level of the pandemic in South Africa poses a serious and significant human rights challenge to us. What we require at this stage is not just medical intervention, but we must also create an environment where people living with HIV/AIDS are free from discrimination and have access to information, shelter, employment, healthcare and social security benefits both in the private and public sectors.

The Commission has as far back as 1997 developed a policy on HIV/AIDS calling on the government to ensure the provision of nevaripine at that time to pregnant women to prevent mother to child transmission. The Commission still stands by that policy today and believes that the Constitutional Court will provide much needed guidance in this regard.

At the later part of last year, the country was engrossed by an increase in the number of sexual abuses on children, some as young as 9 months. The country was horrified by these acts and there were several demonstrations to denounce these devilish acts. The Commission meanwhile had initiated an inquiry into Sexual abuses on Children in 1999. The report of this inquiry will be launched on 23 April 2002. This report

identifies weaknesses in our justice system and will go some way towards addressing these weaknesses.

The Commission has also completed an inquiry into discrimination in the justice department and is currently undertaking an inquiry into human rights abuses in farming communities.

Like other inquiries conducted by the Commission, these inquiries are aimed at informing the Commission on the realities on the ground so that recommendations can be made relevant to authorities, appropriate strategies and mechanisms for monitoring respect for and guard against further violations of human rights are developed.

Chairperson,

The unfortunate incident of September 11, 2001, has led to human rights across the globe being threatened as never before. Human rights must not be sacrificed at the alter of "fighting terrorism".

Chairperson, Ladies and Gentlemen,

In less than five months from today, the world will gather in Johannesburg, South Africa, for the World Summit on Sustainable Development – WSSD. Because issues of sustainable development ARE human rights issues, we urge that discussions at that Summit be guided by human rights imperatives.

In conclusion, permit me to end by wishing the High Commissioner well and to take this opportunity to pay tribute to her for her courage, commitment, enthusiasm and support to national institutions over the years.

I thank you.

Communication de M. Zakaria BEN MUSTAPHA
Président du Comité Supérieur des Droits de l'Homme
Et des Libertés Fondamentales de Tunisie.

Genève, avril 2002

Monsieur le Président,

Il m'est agréable de vous féliciter pour votre élection à la Présidence de la 50ème session de la Commission de Droits de l'Homme et vous souhaiter plein succès dans cette tâche.

Je profite de cette occasion pour remercier également Madame **Mary Robinson** pour les efforts qu'elles ne cesse de déployer pour la promotion et la protection des Droits de l'Homme particulièrement ceux pertinents et courageux dénonçant les atteintes aux Droits de l'Homme perpétrées dans les territoires palestiniens occupés.

Monsieur la Président,

Crée en 1991, notre Comité est un organisme consultatif auprès du Président de la République qu'il assiste pour consolider et promouvoir les Droits de l'Homme. Il entreprend des études sur les sujets d'intérêt particulier et présente à cet égard les suggestions qu'il estime de nature à consolider les Droits de l'Homme dans leur globalité, leur interdépendance et leur universalité.

Le Comité contribue ainsi à l'amélioration du dispositif institutionnel et normatif tunisien. Par ailleurs, le Président du Comité effectue des visites inopinées aux établissements pénitentiaires, aux maisons d'arrêt et autres lieux de garde à vue ou de détention préventive.

Le Comité reçoit et traite également les réclamations et les plaintes présentées par les particuliers.

Il convient de signaler également les multiples acquis de la Tunisie que ce soit en matière de sauvegarde de l'intégrité physique de l'Homme et de sa dignité, de la réglementation, de la détention préventive des garanties octroyées aux détenus ou de l'instauration de l'institution du Juge de l'exécution des peines.

Signalons également que les Droits de l'Homme sont devenus en Tunisie une discipline obligatoire à tous les niveaux de l'enseignement (primaire, secondaire et supérieur), ainsi que dans les instituts spécialisés relevant des départements de la Justice, de la Défense, de l'Intérieur, de la Douane... Un "Prix du Président de la République" est décerné le 10 décembre de chaque année à une personnalité ou à un organisme qui s'est distingué au courant de l'année par ses actions relatives à la promotion des Droits de l'Homme.

Au plan international et depuis la réunion de Paris qui a établi les principes fondateurs des Institutions Nationales, nous avons tenu à participer aux diverses rencontres internationales et régionales et d' y apporter notre modeste contribution.

Nous sommes convaincus, Monsieur le Président, que par delà les intentions, les textes et les institutions, la défense des Droits de l'Homme doit demeurer notre souci permanent et exiger une vigilance de tous les instants car la mise en œuvre de ces différents mécanismes reste l'essentiel des efforts déployés pour assurer à l'Homme, où qu'il soit, sa liberté, sa dignité et son épanouissement.

Je vous remercie.

# STATEMENT

**TO THE 58TH SESSION OF THE UN COMMISSION ON HUMAN RIGHTS**
**Under Agenda Item 18(b) – National Institutions**
**Geneva 17 – 19 April 2002**

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# Permanent Human Rights Commission

Statement to the 58th Session UN Commission for Human Rights

## 1.0 Introduction

1.1 The Permanent Human Rights Commission (PHRC) was established under the Human Rights Act No.39 of 1996 as provided for in Article 125 of the Republican Constitution. This followed a recommendation from the Munyama ad hoc Human Rights Commission of Inquiry, set up in 1993 to investigate human rights violations and abuses in the Second and Third Republics. The Commission became operational in 1997.

1.2 The Commission is mandated among other things to investigate human rights violations, mal-administration of justice, visit prisons and places of detention to assess conditions under which people are held, establish a continuing programme of research, education and information and rehabilitation of victims of human rights abuse to enhance the respect for and protection of human rights.

1.3 The PHRC now in its fifth year, has continued to assert itself in the quest to carry out its motto of **"building a culture of human rights together"** with the people of Zambia and all stakeholders.

1.4 During the year under review the PHRC pushed for the recognition of Economical, Social and Cultural Rights, in the background of the prevalence of poverty in the country. Poverty became a hot political issue during 2001 which saw the country go to the polls to elect the Third Republican President, Members of Parliament and Councillors.

1.5 The election campaign saw a resurgence of intolerance, use of vulgar language and racial remarks and the PHRC continued to appeal for calm and tolerance during the period

1.6 There has been no progress made towards domestication of some international human Rights instruments and the PHRC maintains that the non-domestication of these instruments remains an impediment to the effective protection of human rights in Zambia.

## 2.0 Support

The PHRC continued to receive limited support from the Government due to limited resources. But bulk support was received from the United Nations Development Programme (UNDP) which made it possible for the Commission to continue its human rights sensitisation programme in the rural areas and staff training. Further assistance was received from a number of cooperating partners among them Norway, Finland, Sweden and Denmark.

2.1 This made it possible for the PHRC to initiate its decentralisation programme and improvement of operations in the Investigations and Legal Department.

**3.0 Activities**

3.1 The PHRC undertook a number of activities during the period under review. Among the major activities undertaken included the following:

**3.2 National Workshops on Racism and Xenophobia**

The Commission hosted three national Workshops on Racial Discrimination, Xenophobia and Related Intolerance, as a prelude to the 2001 Durban World Conference Against Racism and Xenophobia (WCAR). The national workshops were intended to sensitise society especially the youth on the evils of racism and its offshoots.

**3.3 Human Rights Workshop for Law Enforcement Officers**

A two-day Workshop was held for the High Command of Law Enforcement wings on Human Rights who included Prisons, Immigration, and Anti-Corruption Commission, during the period under review.

**3.4 National Plan of Action for Human Rights (1999-2009)**

The National Plan of Action (NPA) for Human Rights (1999-2009) was officially launched in 2001. It gives an outline of the objectives and strategies for the promotion and protection of human rights in Zambia.

**3.4 National Committee for Human Rights Education (NACORE)**

The United Nations declared 1995 – 2004 as the Decade for Human Rights Education (HRE) and Zambia had no national institution for human rights in place. In 2000 the PHRC in conjunction with the Ministry of Education, spearheaded the formation of the National Committee for Human Rights Education. The Committee is composed of a cross section of stakeholders and is chaired by the Commission.

During the period under review, the Committee produced a 10-year Programme of Work and Budget (2001-2009) which was approved at a Stakeholders meeting. The Committee held a Baseline Methodology Planning Workshop at which a sub-committee of research experts was appointed to undertake a Situational Analysis on Human Rights Education in Zambia for the Baseline Study. Through the Baseline Study the Committee will identify National Human Rights Education Needs for all sectors of society.

**3.5 Otto Essein Young Professionals Training Programme**

The Commission during the period under review continued to co-ordinate this programme which focuses on building capacities of young undergraduate students at the two universities in Zambia in understanding national and international development by exposing them to the actual world of work through an attachment programmes during their stay at university. Nineteen (19) organisations offered attachment places for the university graduates during the period under review.

**3.6 Decongestion of Prisons**

During the period under review, the Commission with the assistance of Denmark, undertook a Study on Congestion in Zambian Prisons which has resulted in a pilot project, the repatriation of Prohibited Immigrants in order to decongest the Prisons.

**3.7 Repatriation of Prohibited Immigrants**

Following the Prison Study, the Commission which has expressed concern at congestion in most Prisons, spearheaded the repatriation of Prohibited Immigrants to some countries in Africa as one way of decongesting Prisons with funding from Denmark. Among nationals repatriated included Congolese (DRC), Tanzanians and Kenyans. This exercise will continue depending on availability of funding which has made it difficult for the Immigration Department to repatriate Prohibited Immigrants to their home countries.

**4.0 Complaints Received**

4.1 The PHRC received 815 complaints compared to 933 the previous year. The highest number of complaints (443) were labour related and the breakdown is in the Table below.

**Table: Breakdown of Complaints received**

| Complaint | Number |
|---|---|
| Labour related | 443 |
| Accommodation | 84 |
| Deportation/Prohibited Immigrant | 03 |
| Detention | 22 |
| Discrimination | 04 |
| Ill Treatment | 08 |
| Inheritance – Chiefs | 01 |
| Lack of Prosecution | 28 |
| Land Dispute | 16 |
| Maladministration | 103 |
| Property Grabbing | 21 |
| Torture | 23 |
| Unfair Judgement | 07 |
| Child Abuse | 15 |
| Compensation | 32 |
| Delayed Justice | 19 |
| Miscellaneous | 28 |

**Total = 815**

4.2 Due to the high number of labour related compiaints, the PHRC dedicated Human Rights Day on 10 December 2001 to Workers Rights. The PHRC undertook surprise visits to selected factories, commercial farms and Shopping Malls to check on the spot, existing Conditions of Service for workers. In most places there were no written Conditions of Service and where available, copies were kept at the company's head office. Some

farms employed casual workers for periods ranging between six months to 10 years.

**5.0 Position of the Commission on Topical Human Rights Issues**

5.1 The PHRC made its position clear on a number of topical national human rights issues. One major issue was the debate generated by the Presidential Third Term. The PHRC also expressed concern at the poor conditions of service for workers in the country and condemned the one-day jail sentence of a self-confessed rapist.

**6.0 Way Forward**

6.1 The PHRC will in 2002 devote time and effort to lobby for reform of various Zambian laws that impact on the enjoyment of human rights including the amendment of the Human Rights Act No.39 of 1996, to give the human rights body quasi-judicial powers to enable it make legally binding decisions. Currently the PHRC only makes recommendations to relevant authorities. Other legislation requiring review to be more effective in protecting human rights include the Republican Constitution, Public Order Act, Education Act, Penal Code, Prisons Act and Investment Act.

6.2 National Human Rights Institutions need the support of their governments, cooperating partners, all stakeholders and the general public, in order to build together a sustainable culture of human rights.

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